



बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY

Ref. IRDA/ENF/MISC/ONS/227/11/2016

Final Order in the matter of M/s. Aviva Life Insurance Company India Limited

Based on reply to Show Cause Notice dated 6th September, 2016 and submissions made during Personal Hearing chaired by Mrs. V.R.Iyer, Member (F&I), Insurance Regulatory and Development Authority of India (IRDAI) on 3rd November, 2016 at 11:00AM at the office of Insurance Regulatory and Development Authority of India, 3rd Floor, Parishrama Bhavanam, Basheerbagh, Hyderabad.

The Insurance Regulatory and Development Authority of India (IRDAI) (Hereinafter referred to as "the Authority") had conducted an onsite inspection of M/s. Aviva Life Insurance Company India Limited (Hereinafter referred to as "the Life Insurer/Company") during 11.11.2012 to 28.11.2012. A copy of the report was forwarded to the Life Insurer on 30th May, 2013 and the reply was received at the Authority vide letter dated 26th June, 2013. Post scrutiny of the first compliance, the Authority had raised further queries vide e-mail dated 25th September, 2014 which was responded to vide letter dated 14th October, 2014. Further clarifications were called for on certain observations for which the Life Insurer responded to vide emails dated 22nd April, 2016, 25th April, 2016, 28th April, 2016, 2nd May, 2016, 3rd May, 2016 and 16th May, 2016. On examination of the submissions by the Life Insurer, it was observed that the Life Insurer has not complied with the applicable provisions of the Insurance, 1938, Regulations issued by the Authority, guidelines framed there under. Hence, the Authority issued Show Cause Notice on 6th September, 2016 which was responded to by the Life Insurer vide letter dated 27th September, 2016. As requested therein, a personal hearing was given to the Life Insurer on 3rd November, 2016. Mr. Trevor Bull, MD and CEO, Mr. Sanjeeb Kumar, AA and CRO, Mr. Karni Singh Arha, CFO and Ms. Vijayalakshmi Natarajan, CCO were present in the hearing on behalf of the Life Insurer. On behalf of the Authority, Mr. V. Jayanth Kumar, GM(Life), Mr. S.P. Chakraborty, GM(Actuarial), Mr. Prabhat Kumar Maiti, General Manager (Enforcement), and Mr. K. Sridhar Rao, Assistant General Manager (Enforcement) were present in the personal hearing.

The submissions made by the Life Insurer in their written reply to Show Cause Notice and all relevant submissions made during the course of the personal hearing were taken into account.

The findings on the explanations offered by the Life Insurer to the following charges and the decisions are as follows.

Charge No.1

The following issues were noticed with "Grameen Suraksha" – a micro insurance plan

- i) There are number of policies which were completed on the basis of declaration by the advisor that he had forgotten to sign the forms and the insurer may complete them with his declaration.
- ii) Similarly, there are number of policies issued by the insurer basing on the declaration by the agent that, the insurer may accept the answers to some of the questions left blank in the proposal form by the insured as communicated by him.

Violation of Regulation 3(4) of IRDAI (Protection of Policyholders' Interests) Regulations, 2002.

Submission by the Life Insurer

i) It is to submit that with respect to the said proposals, the customer had signed all such proposal forms. However, the specified person of the Corporate Agent had not counter signed the proposal forms but had submitted a declaration separately listing out the policies that did not contain her signatures. The proposals were processed and accepted only post consideration of the said declaration. It is to confirm that this had not absolved the policy holders' rights to disclosures.

ii) It is to submit that all Grameen Suraksha proposals were signed by the customer and full disclosures were made to the customers at the point of sale. The specified persons of the corporate agent in these cases collected all the necessary information and documents pertinent to the proposal for insurance at the point of sale. Therefore, considering the contactability constraints due to geographical spread and remote location of these customers, if any additional information was required by the Company, the specified persons of the Corporate Agent had supplemented the same basis their records. It is further to submit that the Company had also sent intimation to all such customers informing about the requirements necessary for issuance of policy and considering the contactability constraints and profile of such customers, waiting for customers response would have led to delays or even time barred cancellation. However, it is to inform that this practice was discontinued post 2012.

In addition to the above, it is to confirm that the Company did not decline any claim on the basis of the additional information supplied by the specified persons.

Decision

It shall be noted that accepting the proposals without cognizance of prospect may lead to uninformed/unintentional non-disclosure. However, considering the submissions made as above and confirmation that the said practice is discontinued since 2012, **no charges are being pressed**. The Life Insurer is advised to ensure scrupulous compliance of Regulation 3(4) of IRDAI (Protection of Policyholders' Interests) Regulations, 2002 while issuing the policies.

Charge No.2

The Life Insurer has high proportion of Maturity Claims outstanding as at the end of the FY 34% and 42% in 2010-11 and 2011-12 respectively and a significant proportion out of them 48% and 30% respectively are outstanding for more than 6 months after maturity date.

Violation of Regulation 8 of IRDA (Protection of Policyholders' Interests) Regulations, 2002.

Submission by the Life Insurer

It is the Company's constant endeavour to settle claims promptly. The claims were pending due to non-contactability and/or non election of the annuity options by the policy holder. The Company has automated processes and systems in place to inform the policyholders about



maturity due and required formalities three months in advance in writing which is followed up by telephone calls, SMS and reminder letters. In order to improve contactability and settlement, data of outstanding claims also being shared with the Company's sales teams to locally trace and contact policy holders. Also all the customer communications like, premium notices, policy account statements etc. request the customer to update latest contact/Bank details to the Company. The data of outstanding claims is also available on the website of the Company for the customer to access through secured login process. Further to improve contactability, the Company is in the process of sending maturity intimations one year in advance and contacting customers at the time of premium payment.

Further, even if the settlement is delayed due to dependency on the policy holders, as a customer centric measure, ex-gratia interest at savings bank rate compounded quarterly is paid to the policy holders. As on date the company has paid Rs.3.065 Crores as ex-gratia interest amount againsts 10791 maturity claims since February, 2013.

Note on the drives, projects and processes undertaken/set up by the Company to enable and improve contactability with the policy holders is submitted in support of the submissions made.

Further it is to humbly submit that, as a result of the steps taken cumulative outstanding maturity claims ratio as on date reduced to around 6%.

Decision

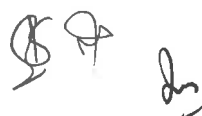
Maturity claim is a company initiated claim and its happening is very well known in advance, hence there shall be every system in place to settle the maturity claims on or before due date. A high percentage of maturity claims outstanding beyond prescribed time lines was a major concern at the time inspection by the Authority. However, considering the submission made above, and the confirmation that, as on date the outstanding ratio of maturity claims has been brought to around 6%, no charges are being pressed. The Life insurer is advised to constantly endeavour for settlement of the maturity claims on or before maturity date. Further, if there are any delays on the part of Life insurer in settlement of maturity claims, they should ensure compliance of Regulation 8(5) of IRDAI (protection of Policyholders' Interests) Regulations, 2002 read with IRDAI Circular No. IRDA/F&A/CIR/CLD/114/05/2015 dated 29/05/2015.

Charge No.3

a) Surrenders were allowed after the date of vesting under policies issued under product name "Pension Plus Regular". Further 100% of Fund value as surrender proceeds was paid though the policyholders were eligible to receive only 1/3rd of the Fund value as commutation value.

b) A new group policy for which premium was funded by making a partial withdrawal from the existing policy of same Master Policyholder, though there was no such provision as per the product filed with the Authority, in the existing policy.

c) While issuing two group policies, the Life Insurer had allowed the premium rates different from filed in the respective products under file and Use. Further, the premiums quoted as



approved by Appointed Actuary at a stated premium plus applicable service tax. However, in these policies the service tax was borne by the Life Insurer on the premiums received and not adhered to the premium quotations approved by their Appointed Actuary.

d) The Life Insurer incorporated a clause on "Discounts on Fund Management Charges (FMC)" under master policies issued in respect of Group Gratuity Plan. However, the product filed with the Authority did not contain any such clause. The Life Insurer allowed the discounts on FMC levied on various occasions.

e) The insurer declared an interest rate of 10.2% p.a. on its "Traditional Group Employee Benefit Plan", if the fund size of the scheme is in excess of Rs. 5 crore. However, it was observed that the insurer had credited an interest rate of 10.2%, even though the fund size was less than a Rs. 1 Crore.

All the above are in violation of File and Use Guidelines and c) is also a violation of circular ref no. 064/IRDA/ACTL/March-2008 dated 18-march-2008.

Submission by the Life Insurer

a) It is to submit that the product features pertaining to Pension Policy allow customers to surrender the policies before maturity and receive surrender proceeds as per approved product File and Use. Wherever it was evident that the customer had submitted a request for surrender prior to vesting date, at an Aviva touch point, the company had provided the surrender value instead of the maturity value. The NAV has been allocated basis date/time of submission of surrender request/final documentation whichever is later. In the cases referred by the Authority, under one policy the policy holder alleged misselling that maturity conditions of the policy were not explained to him at the time of sale and also that he has invested this money for his daughter's marriage and is in urgent need of the same. The policy holder requested the company to refund 100% of the amount to him and the request was after several requests and meetings was acceded and allowed the surrender after maturity. It is to confirm further that, out of total 3171 policies surrendered, only the mis-selling case is an exception. While the date of processing/settlement all other cases would have been after the date of vesting, in all these cases, it is to confirm that the date of request of surrender by the policy holders was prior to the date of maturity. Hence it is humbly submitted that this practice has not violated the product File and Use.

b) The Master Policyholder was expressing dissatisfaction of the fund performance under this policy and lodged multiple grievances. The Company offered redressal of partial withdrawal as a customer centric gesture despite the same not being mentioned as benefit in the File and Use. As a result the master policy holder had taken decision to redirect a part of the fund from this policy to a new policy under a traditional product where they believe that the fund performance would be better and returns are more stable. Given this background of the case and as an exception the Company considered the request of the policyholders to allow this to resolve the complaint.

c) The quote for the said scheme was duly approved by the appointed actuary as per the IRDA circular Ref No.064/IRDA/ACTL/Mar-08 as per which a life insurance company can offer premium quotes to group clients where premium quotes are different from what has been filed under approved File and Use, provided the quote is approved by the Appointed

Actuary. It is to further confirm that variation report with respect to charging premium which is different from File and Use premium rates is submitted to the Authority vide the Company's letter dated 16th August, 2012. With respect to the charge of waiver of service tax, this was done as a customer centric gesture considering that at the point of sale the premium was collected without inclusion of service tax basis the premium quotation. It is to further confirm that the company had equivalent amount of CENVAT credit, hence in effect, the service tax was not borne by the Company in the cases referred by the Authority. However, this practice of waiving service tax at point of sale has been discontinued since 2013.

d) The group gratuity products filed and approved by the Authority since 2006 onwards explicitly provides for discounted rates in fund management charges for large funds size. The Company has been granting such discounts in line with the File and Use approved by the Authority with respect to new policies issued on or after 2006. However, the policies referred are old group products issued on or before implementation of ULIP Guidelines, 2005. As the existing master policy holder requested for discount on Fund management charges, the company, as a customer centric gesture and to be fair, also extended similar benefit to the existing group gratuity policyholders with effect from 2006.

e) It is to submit that, while the File and Use only specifies the fund size threshold for interest declaration, the actual interest rates is in line with the Appointed Actuary's interest declaration note. As per the company's practice, fund amounts for same group of companies with similar funds were clubbed together for interest declaration considering the fact that the ownership was common. However, effect Financial Year 2014-15, the appointed actuary in his note on interest declaration has specifically included clubbing of all the group companies with similar fund or the purpose of applicability of the rate of interest to all such companies. The notes for the Financial Year 2014-15 and 2015-16 are submitted to the Authority.

Decision

a) Allowing surrenders of annuity policies after vesting date would impact the spirit behind taking out the policies. However, considering the submissions made with documentary evidence of having settled the surrenders for those requests only which were received on or before date of vesting, **no charges are being pressed.**

b) It is expected that under no circumstances, the Life Insurer shall deviate from original file and use. Hence the Life Insurer has violated by allowing partial withdrawal which is against the terms and conditions mentioned under approved File and Use. The Life Insurer is hereby **warned** for the same. The life Insurer is directed, in such cases, to apply for modification of File and Use instead of taking a unilateral approach.

c) The amounts waived towards any account, (though it is not a part of the designated premium), to take out or continue a policy may be treated as an inducement and may attract provisions of Section 41 of Insurance, 1938. The submissions that **"the waiver was done as a customer centric gesture considering that at the point of sale the premium was collected without inclusion of service tax (basis the premium quotation)"** cannot be accepted because the Life Insurer has not informed the prospect, the actual premium (along with applicable service tax) to be charged, which



is a material information to be provided at the point of sale as required under Regulation 3(2) of IRDAI (Protection of Policyholders Interests) Regulations, 2002. Considering the same as a gross violation by the Life Insurer, the Authority, as per the powers vested under Section 102(b) of Insurance Act, 1938 levies a penalty of **Rs.5,00,000 (Rupees Five Lakhs only)** on the Life Insurer. The Life Insurer is hereby directed to ensure that such instances do not recur.

d) & e) Considering the submissions made, **no charges are being pressed.**

Charge No.4

While processing the Surrender requests under ULIP policies, the provisions of ULIP Guidelines were not adhered in allocating NAVs. Further delays were also observed in processing the Surrender requests.

Violation of Regulation 8 of IRDA (Protection of Policyholders' Interests) Regulations, 2002 and Clause 10.6.2 of ULIP Guidelines, IRDA/ACTL/Dec-2005 dated 21/12/2005.

Submission by the Life Insurer

It is to be submitted that surrender requests are received at Company's Branches/Head Office for which acknowledgements are provided with non-editable digital time and date stamp. The NAV is allocated basis the date and time of submission of surrender request or final documentation whichever is later. The Company has a process in place to pay penal interest for instances on delay on the part of company. With respect to the cases referred by the Authority, it is to submit that the customer had submitted requests for surrenders with incomplete documentation basis which the requests were declined. However, irrespective of this and as a customer centric gesture, upon the customers raising grievances, the Company offered NAV as on the date of initial request submissions. Hence penal interest was not applicable. Yet, the company has taken further remedial action by settling penal interest against the mentioned policies. The documentary evidence of having done the same is submitted.

Decision

Considering the submissions made, **no charges are being pressed.** However, the Life Insurer is advised to continuously adhere to applicable regulatory norms while settling surrenders of ULIPs.

Charge No.5

The Company engaged Individuals, Sole Proprietary firms, Companies and Partnership firms as "Business Service Associate (BSA)" to identify prospective advisors (agents), assist in determining which persons are to be recruited as advisors, monitor the performance of advisors, providing consultancy and team support services viz., training etc., for the purpose



of selling the insurance products. However, Business Service Associates were also engaged as referral partners.

Violation of IRDAI Circular No. IRDA/Cir/003/2003 dated 30.01.2003.

Submission by the Life Insurer

It is to submit that the IRDAI Circular No. IRDA/Cir/003/2003 dated 30.01.2003 clearly lays down the process that needs to be followed by an insurance company for referral tie up with a Bank. In the absence of any explicit guidelines from the Authority on eligibility criteria of entities to be appointed as referral partner, Non-banking entities and individuals apart from Banks were appointed as referral partners prior to 2010. Post issuance of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010, the Company has terminated all such referral partners that were not in adherence with the said regulations.

Decision

The approach of the Life Insurer that lack of explicit prohibition allows them to deviate (by appointing the referred entities/individuals as referral partners) from the spirit of the circular is unacceptable. The Life Insurer shall consult the Authority for advices in such cases. Hence the Life Insurer is warned for the approach adopted. The Life Insurer is advised to ensure continuous compliance with IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010.

Charge No.6

a) On examination of the valuation data on sample basis, it was observed that the Life insurer has taken in some of the unit linked policies in the valuation as in-force as at 31st March, 2012 with Zero fund values whereas the policy administration system shows non-zero fund values.

b) The policy status of the policy bearing No. NDV3051434 should have been shown as Paid-up and should have been treated accordingly in the actuarial valuation. However the same policy was taken as a lapsed policy leading to underestimation of valuation reserves.

Submission by the Life Insurer

a) It is to submit that during the data validation stage for the valuation as at 31st March, 2012, the appointed actuary had observed these errors (zero fund value) and he has valued these policies outside the actuarial software PROPHET by taking the correct fund values directly from the policy administration system. As a result, an additional reserve of Rs.2.36 Lakhs has been taken in the valuation as at 31st March, 2012 as the reserve for this data error.

It is once again to confirm that these policies have participated in the valuation as at 31st March, 2012 and sufficient reserve has been taken to ensure that the total reserve is not understated. It is also to submit that the Appointed Actuary has kept an additional reserve of Rs.7.4 Crores as at 31st March, 2012 for potential operational risk so that the total reserve at company level is prudent.

b) It is to submit that the status of the referred policy as per the valuation master is in conformance with the status on the policy master as on 31st March, 2012. The status as

shown in the inspection report has perhaps been taken by the inspection team from the live server which shows the current status (on the date of inspection) rather than the status on the valuation date of 31st March, 2012. The screenshots showing the transaction history under the referred policies are submitted for reference of the Authority.

Decision

Considering the submissions made, no charges are being pressed.

Charge No.7

As per Infrastructure Facility agreement with some of the Corporate Agents, office premises of the entities at various locations can be used by the employees and authorized representatives of the insurer for the purpose of conducting business activities. Thus, all such locations where the Life Insurer has arrangements with various entities fall under 'business locations'. However, the Life Insurer has not obtained prior permission of the Authority for these locations.

Violation of Section 64VC of Insurance Act, 1938.

Submissions by the Life Insurer

It is to submit that, considering the nature of activities conducted at bank branch locations, these would not fall within the ambit of business locations to be reported under Section 64VC of Insurance Act, 1938. It is to submit that –

- i) The Bank branches was used as a meeting place for the branch customers to meet with the Corporate Agent's specified persons to educate them about product features, terms and conditions, requirements/formalities required to be complied with for applying for an insurance policy.
- ii) Corporate Agent's SPs deployed at the branches were also educating walk-in claimants on claims procedures and policyholders on formalities relating to service request and grievance redressal at various touch points of Aviva India
- iii) With our distribution partners the company experienced that most of the customers visit bank branches before submitting/paying their renewal premiums to clarify their doubts, seek some information on existing/new products, enquire about investing in a new product etc. The Corporate Agents' SPs educated and explained these customers on their renewal and reinstatement related queries/requirement and guided them to successfully pay the premiums.
- iv) The Co-branded literature and co-branded brand promotional material was displayed in bank branches to spread awareness about Aviva brand and products.

The company reiterates that the nature of services as mentioned above provided to the walk-in customers at bank branches by the Corporate Agents' SPs were only advisory in nature i.e., education, guidance, awareness etc hence these locations should not be considered as places of business as per Section 64VC of the Insurance Act, 1938.



Decision

Considering the submissions made, no charges are being pressed.


Summary:

In conclusion, as directed under the respective charges, the penalty of Rs.5,00,000 (Rupees Five Lakhs only) shall be remitted by the Life Insurer 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 Mr.Prabhat Kumar Maiti, General Manager (Enforcement) at the Insurance Regulatory and Development Authority of India, 3rd Floor, Parishrama Bhavanam, Basheerbagh, Hyderabad-500 004.

Further

- The Life Insurer shall confirm compliance in respect of all the directions referred to in this Order, within 21 days from the date of issuance of this order. Timelines, if any as applicable shall also be communicated to the Authority.
- The Order shall be placed before the Audit committee of the Life Insurer and also in the next immediate Board meeting and to provide a copy of the minutes of the discussion.
- If the Life Insurer feels aggrieved by any of the decisions in this order, an appeal may be preferred to the Securities Appellate Tribunal as per Section 110 of the Insurance Act, 1938.

Place: Hyderabad
Date: 18 -11-2016


(V R Iyer)
Member (F&I)

