



Ref. IRDA/ENF/MISC/ONS/ 008 /01/2017

Final Order in the matter of M/s. HDFC Standard Life Insurance Company Limited

Based on reply to Show Cause Notice dated 3rd October, 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 30th November, 2016 at 11:00 a.m. 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) had conducted an onsite inspection of M/s. HDFC Standard Life Insurance Company Limited (Hereinafter referred to as "the Life Insurer") during 16th September, 2013 to 27th September, 2013. A copy of the report was forwarded to the Life Insurer on 6th November, 2013 and the reply was received at the Authority vide letters dated 29th November, 2013, 4th December, 2013 and 6th December, 2013. Post scrutiny of the first compliance, the Authority had raised further queries vide e-mail dated 02.06.2016 which was responded to vide letter dated 10th June, 2016 and 15th June, 2016. Further clarifications were called for on certain observations, for which the Life Insurer responded to vide letters dated 28th July, 2016 and 1st September, 2016. Upon examining the submissions made by the Life Insurer vide the communications referred herein, the Authority issued a Show Cause Notice on 3rd October, 2016 which was responded to by the Life Insurer vide letters dated 2nd November, 2016 and 3rd November, 2016. As requested therein, a personal hearing was given to the Life Insurer on 30th November, 2016. Mr. Amitabh Chaudhry, MD&CEO, Ms. Vibha Padalkar, ED & CFO, Mr. Subrat Mohanty, Sr.EVP & Head-Strategy, Ops, BS&T & Health, Mr. Srinivasan Parthasarathy, Chief Actuary & Appointed Actuary, Mr. Suresh Badami, Chief Distribution Officer, Mr. Manish Ghiya, EVP, CS and Head (Compliance & Legal), Mr. Prithwiraj Sengupta, AVP-Compliance were present in the hearing on behalf of the Life Insurer. On behalf of the Authority, Ms. Mamta Suri, CGM (F&A), Mr. V. Jayanth Kumar, GM(Life), Mr. Prabhat Kumar Maiti, GM(Enforcement), Mr. Sudipta Bhattacharya, DGM(Actuarial) and Mr. K. Sridhar Rao, AGM(Enforcement) were present in the personal hearing.

The submissions made by the Life Insurer in their written reply to Show Cause Notice as also those 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.

1. Charge No.1

It was observed that the Life insurer did not put in place systems to process the proposals with speed and efficiency and communicate the decisions on the proposals received. Out of 903000 proposals received during the year 2012-13, the underwriting decision was given within 15 days, only with regard to 426016 proposals.

Violation of Regulation 4(6) of IRDAI (Protection of Policyholders 'Interests) Regulations, 2002 and Clause 6 of Annexure II of Corporate Governance Guidelines, IRDA/F&A/CIR/025/2009-10 dated 05.08.2009.

Submission by the Life Insurer

Though there were certain delays mentioned in the observation, it is to submit that, the new business proposal forms are submitted to the Branch Office of the Company. The proposal forms are then scrutinized and medical and other requirements are called for, from the Customer. The Company has a process in place whereby communication of the decisions on the proposals received within 15 days from the date of proposal is ensured. For this purpose Email/Physical letter is being sent informing the customer about the decisions on their proposals submitted. It is to submit that in all the cases highlighted during the on-site inspection, additional information was called for evaluating the life insurance proposals. Hence these proposals were pending for want of non-medical and medical requirements from the customer. Thus the Company had been waiting for the customers' response which was the main cause of the delay for decision of the proposals. Further, as a process, it is ensured that a regular follow up is done with the customer for submission of additional information requirements and hence it is assured that the Company has an efficient process to convert proposals with speed and efficiency. With regard to 476984 (out of 903000 proposal mentioned in the observation), it is to state that the requirements in all these cases were raised in accordance with the Company's internal process within 15 days of login. Thereafter as and when requirements were received the proposals were converted and policies issued within 15 days of submission of the said requirements by the Customer. It is to further confirm that the Turn Around Time for issuance of policies for Non Underwritten proposals and Underwritten proposals is one day and three days of submission of requirements respectively.

Decision

Proposals shall be processed by the Life Insurer with speed and efficiency and all decisions thereof shall be communicated in writing within a reasonable period not exceeding 15 days from the receipt of proposals by the Life Insurer. Requirements, if multiple, shall be raised at one go instead of piecemeal to ensure the compliance to the Turnaround time mentioned herein. The submission that, in the cases referred by the Authority, customer's response was waited which was the main cause of the delays is considered and hence no charges are being pressed. However, the Life insurer is advised to ensure processing of proposals within prescribed Turn Around Time continuously to protect the spirit behind the concerned provisions of the Regulations.

2. Charge No. 2

- a) It was noticed that the Life Insurer has not carried out due diligence / enhanced due diligence where the annual premium is more than Rs. 1 Lakh per annum.
- b) It was observed that the insurer did not obtain the KYC documents and proof of income with regard to legal persons.

Violation of the Clause 3.1.1 of the Master Circular on AML guidelines, IRDA/ F&I/ CIR/ AML/158/09/2010 dated 24/09/2010.

Submission by the Life Insurer for a)

In respect of cited cases observed by the Authority, the income documents collected were adequate to conduct the policy level financial underwriting and hence the same were accepted by the Company. The details of income documents and the criteria for underwriting for each of the instances noticed were submitted to the Authority indicating that enough due diligence has been carried out. Further it is to submit that under the Company's



AML framework, processes are institutionalized whereby inter-alia documents pertaining to source of funds are collected for high risk individuals. The process of conducting due diligence has been enhanced with effect from May 2013, for all high risk cases including cases where the total premium amount is Rs 1, 00,000/- and above. It is to confirm that all cases for more than Rs.1,00,000/- premium are checked by senior officials in the new business function and converted only when the AML documents are in place. Further, it is to state that some of the key current validations, including income / source of funds verification, which earlier were reckoned at a policy level, are now being applied at Customer level. The processes related to collection of AML related documents have also been tightened and its scrutiny at policy servicing stage. The Company has also formulated a strong AML compliance transaction monitoring framework and a Concurrent Audit team which conducts its reviews on ongoing bases and monitors the compliance standards to AML Guidelines at an organization level.

Submission by the Life Insurer for b)

Earlier the Company was collecting the documents from the policyholders other than individuals, in line with our AML process. As mentioned in the foregoing paragraph, effective May 2013, the entire AML framework was reviewed and several changes were made to further strengthen AML compliance. As part of the same, now it is ensured that the KYC is done for the legal persons and proposals are not converted if the income and other documents are inadequate.

Decision

a) The Life insurer submitted case wise details to establish that they have exercised due diligence where annual premium is more than Rs.1,00,000 per annum under the policies observed by the Authority. In light of the same and considering the explanations made with regard to processes in place, no charges are being pressed.

b) Considering the submissions made, no charges are being pressed.

3. Charge No.3

I. Maximum sum assured condition under a single life, was not adhered. Instances are

- a) Under one product, sum insured beyond Rs.10 Crores was allowed though maximum sum insured under the product was only Rs.10 Crores.
- b) Under another product, Sum assured beyond Rs.5,000 was offered under multiple policies on the same life.

II.As per File and Use approved for the group traditional product (UIN-101N075V01), the fixed guaranteed rate of return on the premiums at the inception of the policies were not allowed. However, it was observed under 24 group policies; the Life Insurer had given the high fixed guaranteed rate of return for the period of 3 to 5 years at the time of issuance of the policies. For example under policy number G0000564 the Life Insurer offered the guaranteed fixed rate of return of 10.25% for 5 years, G0000593 the guaranteed fixed rate of return of 10.50% for 3 years.

III.The Life Insurer had issued many 'HDFC Development Insurance Plan' group rural policies with the member entry age above 50 years (for example Policy no.: RT11021500, RT131042700). Further it was noted that the Life Insurer had charged premium of Rs. 150 per each Rs.10,000 sum assured for the members aged between 51 and 60. In this regard, the deviation in the pricing under this plan was also not reported to the Authority.

All the above are in violation of File and Use Guidelines and III is also a violation of circular 64/IRDA/ACTL/March-2008 dated March 18, 2008.

Submission by the Life Insurer for I

As per the Company's understanding of the File and Use of first product, approval was that the maximum sum assured limit under the referred products was on a per policy basis and not per life basis. The Company believes that multiple policies not exceeding the maximum sum assured per policy can be issued to one life subject to underwriting. It is to further submit that the Sum Assured eligibility per life depended on underwriting and reinsurance norms. However, the number of such instances was very few – only 17 out of nearly 3 lakh cases (being less than 0.006%). It is further to submit that in the modified product the maximum sum assured is removed and made the sum assured subject to underwriting.

Also with respect to another product, it was fixed premium (Rs.200) fixed Sum assured (Rs.5000) and Fixed Maturity benefit (Rs.300) at the end of fixed term 5 years meant primarily as a savings option for the low ticket segment. If one wanted to invest Rs.1000, then the customer would be given 5 policy documents, which is a simple tear-away sheet like a NSC bond or a Kisan Vikas Patra (KVP). Being primarily a savings product, there was no need to apply a cap of Sum Assured per life and fixed amounts mentioned in the product is only for operational simplicity so that it can work along the lines of NSC of KVP

Submission by the Life Insurer for II

In practice, there are two broad categories of policyholders in the group funds business:

- those who wish to know the return on their contributions at the time they invest the funds, as this enables them to take appropriate decisions in relation to the funding of their liabilities,
- Others who are comfortable with a rate of return in line with the prevailing fixed income yields.

In order to meet the needs of both the categories of customers specified above, the following was done.

- Premiums of customers who prefer guarantees have been invested in separate non-participating asset pools such that the yields on these asset pools can support the returns offered to the policyholders. It is also to state that twice in the past the Authority has inquired whether HDFC Life had specific assets to back the guarantees, and the Company has provided adequate documentation to confirm the same. At no point of time the Company has been informed by the Regulator that guarantees could not be given.
- Premiums of other customers has been pooled and invested in a common non-participating asset pool.

Further it is also to submit that these instances were reported on ongoing basis in the quarterly report to the Authority under Circular No.64 referred above. It is to confirm that the guaranteed returns are within the actual returns in every single guarantee scheme and for the sake of clarity the two types of schemes prevalent in the market (guarantee and variable) have been explicitly stated in the modified version of the said products and the same has been approved by the Authority.

Submission o the Life Insurer for III

The product is targeted to be offered to Non Government Organisations representing groups comprising of people from the weaker socio-economic profile. Considering the heterogeneity in the mortality rates for various groups, the File and Use Application (Section 18) specified that whilst the initial premium would be Rs 2.5 per 1000 SA, the premium rate quoted would be subject to underwriting of the group as a whole. Accordingly, the rate quoted for ages 51 to 60 was higher to reflect the higher mortality incidence at these ages. Since the group consisted of the weaker socio economic profile, in the spirit of the insurance cover, a few members were covered above the age of 50 years. As mentioned earlier, higher premium was charged for the members covered in the high age bracket. Reporting of this deviation to the Authority under Circular 64 Quarterly Report was inadvertently missed out. The same is regretted. It is to confirm that the Company has instituted strong controls to avoid any such recurrence.

Decision for I

The general underwriting (Financial and Medical) practice for considering the sum Assured is on per life basis. Hence the issuance of policies with sum assured per life higher than the limits set in F&U filing is in deviation of the File and Use provisions. The submissions elaborated as above, cannot justify the deviation from original file and use. However, as there was no mention in the File and Use on the application of maximum sum assured (whether it is at per life or per policy), and subsequently the product is modified with removal of upper limit of Sum Assured per life, no charges are being pressed.

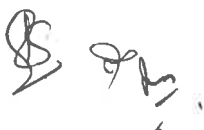
With regard to second part, being a Life Insurance Company, the Life Insurer is supposed to sell a policy as an insurance product. Hence the comparison of the said product with NSC/KVP which is investment instrument cannot be accepted. The product "Serv Gramin Bachat Yojana" was approved as a Micro Insurance product. Under Micro Insurance Regulation 2005, a maximum Sum Assured is also prescribed. By allowing sum assured more than that allowed under the said regulation, the Life insurer has violated the approved F & U. The Regulatory action in this regard is mentioned under Decision part of III.

Decision for II

On scrutiny of the observation and response by the Life Insurer, it is evident that the Life Insurer has offered two different investment options to different categories of policyholders that were not approved under original File and Use. Hence this is a gross violation of File and Use. Regulatory action in this regard is mentioned under Decision part of III.

Decision for III

The Life Insurer shall note that, whenever they realise the demand of a specific feature that is not available in the approved File and Use, they shall approach the Authority for revision of the product in order to include the required feature. The new feature can only be marketed post approval of the revision. Further, the Life insurer accepted that the reporting of deviation was inadvertently missed out. So, the Life Insurer's resorting to such practice indicates their casual approach towards



regulatory prescriptions with regard to File and Use and the circular mentioned herein.

Keeping in view the Life Insurer's approach towards adhering to File and Use Guidelines and pertinent Regulations/circulars etc., under the observations no. I (b), II and under this observation, as per the powers vested under Section 102(b) of Insurance Act, 1938 on the Authority, a penalty of Rs.,5,00,000 (Rupees Five Lakhs only) is levied on the Life Insurer.

Further, the Life Insurer is advised to ensure continuous compliance of the pertinent Regulations, File and Use Guidelines and Circulars issued by the Authority from time to time with regard to the subject matter referred under the observations.

4. Charge No.4

Surrenders were allowed within 3 years (lock in period) under ULIP policies.

Violation of Point 4 of ULIP Guidelines 032/IRDA/ACTL/Dec-2005 dated 21.12.2005.

Submission by the Life Insurer

As a process surrenders in the lock in period are not allowed and fully comply with the relevant regulations in this regard. With respect to the cases highlighted in the inspection observation, it is to confirm that the error was purely due to oversight. Last error of this dates back to February, 2013. The relevant checks and controls have been hard ceded into the system since April, 2014 onwards, to restrict any surrender payout within lock in period.

Decision

Considering the confirmation that since February, 2013 there has been no such errors and further confirmation of having checks and controls to ensure non-recurrence of such issues, no charges are being pressed. The Life insurer is advised to continuously comply with the regulatory prescriptions with regard to surrenders under Unit Linked Insurance Plans.

5. Charge No.5

Non-recording/wrong recording of time and date of receipt of partial withdrawal and free look cancellations requests, lead to wrong application of NAV.

Violation of Clause 10.6.2 of ULIP Guidelines 032/IRDA/ACTL/Dec-2005 dated 21.12.2005.

Submissions by the Life Insurer

The Company has necessary process of recording NAV in the system, basis the time of receipt of the request from the customer. The affixing of the received stamp is a manual process and in the instant cases, the same had been erroneously affixed with a different date. The Company has taken corrective steps in the form of reiteration to operations teams and introduced a process of conducting quality checks on a sample basis at the Company's end so as to ensure and to avoid such gaps in future.



Decision

Recording of date and time of receipt of the request is primary requirement in application of NAV. Hence there shall be nil errors in respect of the same. The Life insurer has accepted the errors in the recording the date and time of the requests. Hence the Life Insurer is hereby warned for the same. The Life Insurer is directed to be vigilant hereinafter in ensuring the accurate recording of date and time of such requests thereby to ensure correct application of NAV.

6. Charge No.6

On examining sample top up cases under ULIP policies, few instances were observed where the source of income document proof for high value top-up premium was not obtained.

Violation of 3.1.5 of AML Guidelines No. IRDA / F&I/ CIR/ AML/ 158/ 09/ 2010 dated 24/09/2010.

Submissions by the Life Insurer

The Company has a process of obtaining income/source of funds documents before accepting a top-up under a policy. Under the policy observed by the Authority, the Company had collected the relevant document (shared with the Authority). It may also be noted that the validity period of such documents submitted as proof are also checked before accepting the top-up requests. Further the Company had reviewed entire AML framework and made several changes to the same to further strengthen AML compliance. As part of the same, it is ensured that the income/source of funds documents is collected before accepting the top-up premium from the customers.

Decision

In the policy referred in the Inspection observation, the submitted Income proof is not sufficient to justify the sources of income available to support the premium deposited. However, considering the submission that the Company had reviewed entire AML framework and made several changes to the same to further strengthen AML compliance and further submission that the income/source of funds documents is collected before accepting the top-up premium from the customers. no charges are being pressed.

7. Charge No.7

Surprise inspection of the books and records of the Group Organizer or Manager at least once a year has not been carried out nor obtained a certificate of such compliance from the auditors of the Group Organizer or Manager to ensure total compliance with the requirement under Group Guidelines (during FY2011-12 and FY 12-13).

Violation of Clause C-11 of Group Guidelines, No.015/IRDA/Life/Circular/GI Guidelines/2005 dated 14/07/2005.

Submission by the Life Insurer

With respect to employer employee groups, the companies face practical challenges in the field with employers not willing to open their records for inspection, as this is not a statutory requirement for them. Considering that some of the Customers are PSU entities, they also stiffly resist permitting any such audit. However, the same was ensured for all the non-



employer employee group organizers. Further Employer-Employee audits were not required by the regulation.

Decision

The contention that “in case of Employer-Employee Schemes, audits were not required by the Regulation” cannot be accepted as there is no such categorical exemption was given by the said guidelines or in any other regulatory norms. The Life Insurer shall make the requirement as a part of agreement of group scheme with the Group organizer which may bind the Group Organizer to co-operate. The Life Insurer has failed to ensure the compliance with the said regulatory requirement and hence hereby **warned** for the same. The Life Insurer should take all the steps to ensure compliance with the guidelines in this regard within six months from the date of this order under intimation to the Authority.

8. Charge No.8

a) The Life Insurer had engaged the services of Individuals, Sole Proprietary firms, Companies and Partnership firms as “Business Leaders”, to identify prospective advisors (agents), and mentoring the agents to perform better. However, the payouts made to these Business Leaders were not reported under Outsourcing Activities.

b) Sales promotion expenses paid to vendors were not made part of outsourcing reports.

Violation of Clause 11.2 and Clause 13 of Outsourcing Guidelines, IRDA/ LIFE/ CIR/ GLD/ 013/02/2011 dated 01/02/2011.

Submission by the Life Insurer for a) and b)

The activities undertaken by a Business Leader does not fall under the ambit of outsourcing. Further with regard to sales promotion expenses, based on the clarification provided by the Authority's letter dated 14th January, 2015, these activities have been included relating to marketing/advertising in the outsourcing returns from half year ending September, 2014.

Decision for a) & b)

With regard to a), it shall be noted that the 'Outsourcing' is defined as per the referred guidelines as “Insurer's use of a third party to perform activities on a continuing basis that would normally be undertaken by the Insurer itself, now or in the future”. Hence as per the definition, the activities entrusted to Business Leaders, such as identifying prospective agent, training, mentoring etc fall under the outsourcing activities. Hence the Life Insurer's contentions that the said outsourced services are not explicitly covered under the outsourced guidelines and have hence not been reported to the Authority are not acceptable. Clause 13 of the said guidelines clearly mandates insurers to contact the Authority for clarifications in case of services that are not explicitly referred therein. Hence the Life Insurer has violated the provisions of Outsourced Guidelines, 2011 mentioned herein. The Life insurer is **warned** for the same and directed to be vigilant hereinafter in adhering to reporting requirements enunciated in Outsourcing Guidelines, 2011.

With regard to b), in light of the corrective action taken subsequent to the Authority's direction vide letter dated 14th January, 2015, **no charges are being pressed.**

9. Charge No.9

a) It was observed that the Life Insurer is passing considerable amounts on financial / non-financial incentives to the employees of Corporate Agents in the name of "Skill Building Programme". The incentives are based on the volumes of new business premium / new policies sold during the specific period.

b) Payouts were made to Corporate Agents in the name of Business Development Expenses (Sales Promotion) and training expenses.

Violation of Clause 21 of Corporate Agency Guidelines No.017/ IRDA/ Circular/CA Guidelines/2005 dated 14/07/2005 b) is also in violation of Clause 8.4 of Outsourcing Guidelines, 2011 as outsourcing of any activity to intermediary is prohibited.

Submission by the Life Insurer

a) *The Company organizes skill building programmes for the employees of its corporate agents with the specific objective of enhancing and improving their skills. The Company carries out specific training on products to be sold by the corporate agent in accordance with the regulatory requirement laid down in the IRDA Guidelines on Licensing of Corporate Agents of July 14 July, 2005, which requires the Company to "organize specific training for the staff of the Corporate Agent related to its products that will be sold by the Corporate Agent". It is to submit that no payment is made to the Corporate Agent or the staff of the corporate agent in relation to organizing or attending such training programmes. Payments in relation to organizing these programmes were made only to third party services providers who provide the venue and associated facilities for the Company to organize and conduct the training programmes, such as tour operators, hotels etc. Further, it is to submit that there was no linkage at policy level between the business volumes of the corporate agent with the number of employees qualifying for the training. This was more of training at an individual level and if no one qualified based on the pre-defined thresholds of business achievement, then no such employee would be sent for the training. The qualifying parameter would have to be interpreted as the minimum threshold so as to aim for higher benchmark and be among the top performers. Thus, the Company would like to clarify that the eligibility for the trip was determined basis a certain threshold of business achievement. This was to ensure that the best in class people are recognized, which in turn would be a source of motivation for the others also to aspire higher. Further, it is submit that during 2010-11 and 2011-12 certain incentives were given to employees/officials of the corporate agents. These incentives were of small value as compared to the overall volume of business. It is to confirm that since November, 2011 onwards the company had discontinued the practice of providing financial incentives to the employees/officials of corporate agents. It is further to submit that since April, 2013, the Company has also discontinued non-financial incentives including international trips for two corporate agents viz., Indian Bank and HDFC Bank and further the Company has terminated the relationship with Indian Bank from January, 2015.*

b) *This is to confirm that the business development expenses referred herein by the Authority were paid for the years 2012-13 to Corporate Agents, towards Web Branding, Display of Publicity Material at office/branches/ATM/Website etc. These expenses were reported under 31B (2) reporting requirements and the matter in this regard was also dealt with in detail by the Authority, which was concluded vide Authority's letter dated 17th March, 2005 (a copy is also submitted). Further it is to submit that the Authority has also convened personal hearings with respective corporate agents separately on this matter and has already issued a letter to them in this regard.*



The training expenses referred herein were paid to a Corporate Agent on account of utilization of its infrastructural facilities to conduct training for the specified persons. It is to submit that the subject matter under these payouts has also been extensively already dealt with in complete details during the proceedings with respect to filing under 31B(2) for Financial Year 2012-13 and the same has been decided as per the Authority's letter dated 17th March, 2015 referred above.

Decision for a)

On examination of the observation and submissions of the Life Insurer, it is to state that the Life Insurer is trying to take shelter under Clause 12 of Corporate Agency Guidelines No.017/IRDA/Circular/CA Guidelines/2005 dated 14/07/2005 which states as follows –

“The Insurer shall be responsible to organize specific training for the staff of the Corporate Agent related to its products that will be sold by the Corporate Agent”. ‘

The staff referred in the above clause shall be read with Regulation 2(n) of IRDA (Licensing of Corporate Agents) Regulations, 2002 which says “.....by whatever name called or one or more of the employees designated by him, who has undergone the practical training, examination, certification and who is responsible for soliciting and procuring insurance business on behalf of the corporate agent”. Hence it can be deduced that the staff referred in Clause 12 of the said guidelines relates to only specified persons of the Corporate Agent.

Further, in accordance with Clause 17 of the said Guidelines, the employees other than Specified Persons can only refer the prospect for sale of insurance products, but such reference shall not be rewarded on the basis of success of sale.

However, as per the documentary evidence on record, the criteria for the selection of candidates for foreign trips are based on specific volume of business procured. Upon examination of explanation of the Life Insurer, they agreed that they had sponsored employees other than Specified persons also for succeeding in the competition. Hence, it is evident that the Corporate Agent and the Life Insurer has engaged unauthorized persons (employees other than Specified persons in this case) in solicitation of insurance.

Though the payouts in regard to foreign trips were made to third party vendors, the beneficiaries are the employees/specified persons of the Corporate Agent. Hence it can be inferred that the incentives were in a way paid to the employees/specified persons only.

Further offering financial or non financial incentives directly to the Employees/ Specified persons cannot be accepted. Any competition floated shall be made applicable only at Corporate Agent level.

In light of the same, the Authority as per the powers vested on it under Section 102(b) of Insurance Act, 1938, a penalty of Rs.5,00,000 (Rupees Five Lakhs only) on the Life Insurer. The confirmations that such financial and non-financial incentives were discontinued since November, 2011 and April, 2013 respectively are noted and hence no further directions are given in this regard.



Decision for b)

It is noted that the regulatory action was already taken under the both the issues. Hence **no charges are being pressed**. However, the Life Insurer has to continuously comply with the directions/advisories issued by the Authority under the letter referred herein under intimation to the Authority.

10. Charge No.10

Penal Interest on service tax debited to Policyholders account instead of shareholder account.

Violation of IRDA Preparation of Financial Statements and Auditor's Report of Insurance Companies) Regulations, 2002 (Refer Form A-PL- Profit and Loss Account item "Expense other than those directly related to the insurance business").

Submission by the Life Insurer

The debit to Policyholders account relates to the provision for interest on service tax matter in an appeal and it is not penal in nature. The service tax matter relates to payment of service tax (reverse charge basis) on commission which was adjusted against the available CENVAT credit in earlier years and hence interest provision on service tax on commission relates to insurance business and therefore it is required to be debited policyholders account only. The service tax matter was subsequently decided in the Company's favour at CESTAT level and consequently the Company has completely reversed (credited) the interest provision entry in the policyholders account in July, 2014.

Decision

Considering the submissions made and the confirmation of having completely reversed the interest provision entry in the policy holder account in July, 2014, **no charges are being pressed**. The Life insurer is advised to ensure the provisions of Regulations mentioned herein continuously.

11. Charge No.11

Considerable payouts during 2012-13 were made to Broker under the name of Skill Building Programme.

Violation of Regulation 19 of IRDA (Insurance Brokers) Regulations, 2002.

Submission by the Life Insurer

The Company do not make payments to any Broker which is in excess of the limits on remuneration set out in Regulation 19 of the IRDA (Insurance Brokers) Regulations, 2002. As the Company introduces new products on a regular basis and make periodic updation and developments of the systems and processes, it is believed that it is useful to organise programmes on a periodic basis at a central location where the company can provide the employees of Brokers with details on the new products and updated processes in order that, in particular they have better understanding of the features and benefits of these products while offering them to prospective customers.

The Company only invite but do not compel the employees of the Brokers in any way to attend these programmes. In the event that the employees of Broker choose to attend then they are in no way compelled to offer/push any of the Company's products and are still



meant to follow their regulatory duty to offer the best product for the prospect's needs. Further, no payouts were made to a broker or its employees in relation to attending these programmes. Any payments relating to these programmes are given directly to the third party service providers who provide the Company, their premises and associated facilities for the duration of the training programme. The third party service provider only provides us with the space and associated facilities to carry out the training programmes and the actual training is carried out by the Company's employees.

Decision

On scrutiny of the documents pertaining to the observation, it is found that the employees of the brokers were sponsored for foreign trips in the name of training. The Life Insurer submitted that the training is to provide information on new products launched and on their relevant systems and processes. It shall be noted that, there may not be any necessity of sending employees of the Brokers to foreign countries to train them on the said subject. The inconsistency clearly indicative that the employees were benefitted through foreign trips under the guise of training. The expenditure so incurred can be treated as an indirect payout over and above the eligible brokerage prescribed under the said regulation.

Insurance Broker is a person registered with the Authority, who for remuneration arranges insurance contracts with insurance companies and/or reinsurance companies on behalf of the clients. The functions of broker include maintaining of detailed knowledge of available insurance markets as may be applicable.

An insurance broker is the representative of a client and broker has no role to play in influencing the prospects in getting insurance with particular insurance company. Certainly, the foreign trips to the employees of the brokers influence the brokers to sell the products of a particular insurance company by acting as a defacto-agent thereby defeating the objective of insurance broking model.

Hence treating this is as a violation of Regulation mentioned under the charge, 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. Further the Life Insurer is directed to discontinue the practice of sponsoring the Brokers or their employees as such, under the confirmation to the Authority.

Summary:

In conclusion, as directed under the respective charges, the penalty of Rs.15,00,000 (Rupees Fifteen 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

- a) 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.

- b) 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.
- c) 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: 11th January, 2017


(V R Iyer)

Member (F&I)

