



Ref.No: IRDA/ENF/ORD/ONS/ 185 / 09 / 2016

Final Order in the matter of M/s SBI Life Insurance Co Ltd.

Based on reply to the Show Cause Notice dated 16th May, 2016 and submissions made during Personal Hearing on 12th July, 2016 at 11.30 Am taken by Member (F&I) at the office of Insurance Regulatory and Development Authority of India, 3rd Floor, Parishrama Bhavan, Basheerbagh, Hyderabad.

The Insurance Regulatory and Development Authority of India (hereinafter referred to as "the Authority") carried out an onsite inspection of **M/s SBI Life Insurance Co Ltd** (hereinafter referred to as "the life insurer") during 20th to 31st January, 2014. The Authority forwarded the copy of the Inspection Report to the life insurer on 10th March, 2014 and the life insurer responded vide letter dated 7th April, 2014 and 29th September, 2015. Upon examining the submissions made by the life insurer, the Authority issued Show Cause Notice on 16.05.2016 which was responded to by the life insurer vide letter dated 10.06.2016. As requested therein, a personal hearing was given to the life insurer on 12.07.2016. Sh Arjit Basu, MD & CEO, Sh Sanjeev Pujari, ED (Actuary & Risk Management) & CRO, Sh Sangramjit Sarangi, CFO, Sh Subhendu Bal, Appointed Actuary & Sh Pranay Raniwala, Chief Manager-Compliance were present in the hearing on behalf of the life insurer. On behalf of the Authority, Ms. V.R.Iyer, Member (F&I), Sh. Lalit Kumar, ED & HOD (Enforcement), Sh Jayanth Kumar, JD (Life), Sh Prabhat Kumar Maiti, JD (Enforcement) & Sh K.Sridhar, Sr.AD (Enforcement) were present during the personal hearing.

The submissions made by the life insurer in their written reply to the inspection observations, to the Show Cause Notice and also those made during the course of the personal hearing have been taken into account.

The findings on the explanations offered by the life insurer to the Show Cause Notice and the decisions thereon are detailed below.

1. Charge – 1

- a) On examining the STRs issued during 2012-13, it is observed that insurer had not checked alerts/transactions for the purpose of STR/CTR in the following categories
- Policy from place where the customer doesn't reside/employed (with premium \geq Rs. 1 lakh).
 - Unusual termination of policies (refund amount \geq Rs.1 lakh).
 - Assignment of policies to unrelated parties (SA \geq Rs.5 lakh)

- b) On examining the logic applied by insurer for raising an STR, it is noted that it has excluded Free Look cancellation requests received on account of dissatisfied terms and conditions of the policy.

Violation of para 3.2-1(b) & para 3.1-6(ii) of the AML Circular: No. IRDA/F&I/CIR/AML/158/09/2010, dated 24-9-2010.

Submission of the insurer:

The detailed STR logics for the categories mentioned were in the process of being reviewed and developed in our SAMS (SBI-Life Anti Money Laundering System) system during FY 2012-13. *Thereafter* data was extracted and reviewed for these categories on a regular basis from April 2013 consistently and STRs were filed with FIU-IND, on a regular basis without any delay. Further, the company also extracted and checked STR transactions for the mentioned categories for the FY 2012-2013 and reported the identified suspicious transactions to FIU-IND within 7 days of identification.

We clarify that all alerts generated with regard to "Free-Look Cancellation" are invariably checked / reviewed for Source of Funds. Exclusion is considered only after satisfying ourselves with regard to the Source of Funds, whatsoever is the reason given for free look cancellation. Further we submit to the Authority that we have been reporting suspicious transactions relating to Free-look with FIU-IND since FY 2010-11.

Decision:

In light of the corrective measures taken, no charge is pressed and the life insurer is hereby advised to scrupulously observe the AML guidelines issued from time to time by the Authority.

2. **Charge – 2**

On examining the data pertaining to rural sector business, it was observed that some policies with urban addresses were included in the rural business.

Violation of Regulation 2c & 3 of IRDA (Obligations of insurers to Rural or Social sectors) Regulations, 2002 and Clause 6 of Corporate Governance guidelines of annexure II of circular no. IRDA/F&A/ Cir/ 025/ 2009-10 dated 05/08/2009.

Submission of the insurer:

As a set process, the rural classification is done on the basis of latest Census data available as per guidelines. However, at times we do face some limitations for 100% accuracy due to the complexity of the rural database. There are instances where in a particular state; some rural and urban locations may have same or similar names.

Therefore, there are challenges with regard to obtaining an error free solution to this issue. However, such cases would be few as multiple rounds of cleansing of data happens before reporting is done. In 2010, the rural classification was done basis 'pincode' and in 2012 the classification methodology and identification of rural business was done basis 'location' mentioned in Census data. To strengthen the process for bifurcation of rural and urban category, the company has also taken the following steps:

- a) An automated algorithm is now used to identify rural cases basis a combination of village, taluka and district.
- b) Additionally, manual verification is done on test basis to enhance accuracy.

Further, insurer submitted and confirmed that it has consistently maintained the exposure under rural sector business well above the mandatory threshold as specified under the Regulation.

Decision:

On a similar observation of the insurer during the on-site inspection observation of period 20th to 24th December, 2010, at charge 17 of the Order dated 18/09/2012 Authority took note of the insurer submission on strengthening the systems, ensuring accuracy of data and classification of rural/urban data on location basis. However, it is noted that even after few measures taken by insurer to address the issue after the Authority advisory, still wrong classification was observed in the sample cases examined by the team. Though the insurers' rural business coverage is above the minimum stipulated benchmark as required under the Act, the sample errors observed seriously raise the correctness of the rural data and achievement to the rural obligation.

In light of the submission on further strengthening the process, no charge is pressed. However, insurer is warned for using erroneous data while extracting figure for complying with rural obligation. Insurer to ensure compliance to Regulation 5.2 of IRDAI (Obligations of Insurers to Rural and Social Sectors) Regulations, 2015 by placing an effective operational procedure for accurate classification of the business obligations into the Rural Sector and Social Sector.

The insurer is further directed to evolve a mechanism in order to ensure data accuracy while complying with rural obligation and a repeated default would be viewed seriously in future.

3. Charge – 3

In respect of claim settlement under ULIP plans the terminal mortality charges were recovered for full policy year, but as per the terms and conditions of the product, the terminal mortality charges to be recovered upto the date of death.

Violation of F&U guidelines, Clause 6 of Corporate Governance guidelines of annexure II read with point 5(e) of Annexure 1 on 'Responsibilities of Board of Directors'

of circular no. IRDA/F&A/ Cir/ 025/ 2009-10 dated 05/08/2009 and Regulation 8 of IRDA (Protection of Policyholders' Interests) Regulations, 2002.

Submission of the insurer:

Insurer submitted that the excess mortality charges recovered was on account of an error in system logic. The error was identified during internal audit in April, 2013 and the system logic has been rectified on 21st November, 2013. Insurer in support of submission has submitted compliance officer's certificate. Initially the company replied that a total of 166 old cases were identified and on Authority seeking further clarification whether excess recovery was effected under all other ULIP plans, insurer submitted that on a total of 2360 death claim cases (including the 166 first reported) mortality charges was excess recovered.

Insurer confirmed and submitted a certificate from its statutory auditor stating that it has refunded the excess recovered mortality charge along with penal interest till the date of payment and the amount has been charged to Shareholders account.

Decision:

It is noted from the insurer submission that excess mortality recovery happened in death claim cases of 17 ULIP products on a total of **2343 policies amounting to Rs.14 lakhs**. The amount has been refunded in 4 batches (30/01/2014, 14/10/2015, 13/04/2016 & 09/05/2016) with a penal interest of Rs.8 lacs amounting to a total of R.22.34 lacs and insurer also provided policy wise payment details.

Further decision is at charge 4 of the Order.

4. Charge – 4

- a) It was observed that in respect of ULIP plans the mortality charges were recovered while the policies were in lapsed condition and the same were not refunded. Excess recovery of mortality charges happened w.r.t 14 products during the period 2006 to 2013.
- b) On examination of transaction cum unit statement in case of foreclosed policies, it was observed that the mortality charges were deducted from individual policy account even after the end of insurance coverage period. This excess deduction of mortality charges remained undetected by the insurer and hence not refunded to the policyholders/adjusted against the policy account.

Violation of F&U guidelines, Clause 6 of Corporate Governance guidelines of annexure II read with point 5(e) of Annexure 1 on 'Responsibilities of Board of Directors' of circular no. IRDA/F&A/ Cir/ 025/ 2009-10 dated 05/08/2009 and Regulation 8 of IRDA (Protection of Policyholders' Interests) Regulations, 2002.

Submission of the insurer:

The excess recovery primarily was on account of the unavailability of the lapsation module in the system for certain products besides a few instances of delays in lapse batch run. All these are old cases pertaining to the period between 2007-2010 in respect of products launched prior to issuance of Authority's Guidelines for Unit Linked products in 2010. The error was noticed on 20th November, 2012 and was rectified on 17th October, 2013. The excess recovery happened on 4.66 lakh policies under 14 products, of these excess recovery refunded on 3,55,333 policies as on 31st May, 2016 in 5 batches during 15th October, 2015 to 9th May, 2016 amounting to Rs.4.71 crs with penal interest, reversal done on 66,457 policies as on 15th April, 2014 and no refund is due on 44,600 policies as fund value of these policies was forfeited due to non payment of minimum stipulated premium.

Insurer informed that the refund of Rs.4.71 cr has been charged to Shareholder's account and submitted auditor certificate in support of submission.

Insurer further informed on the steps taken to strengthen processes and system controls to ensure that such issues do not recur in future.

Decision for charge 3 & 4:

It is noted that even after insurer's internal audit identifying the error in system logic during November, 2012 and by inspection team in January 2014, insurer has not acted on the excess recoveries but has only submitted information of refund made towards one sample ULIP product identified by inspection team. Only after Authority seeking further clarification and confirmation in August, 2015, insurer submitted the details of total effected policies and started refunding along with penal interest with first batch of refund executed on 15th October, 2015 and last batch final payment on 9th May, 2016. Thus the system logic error continued during the period of 2006 to 2013, thereby showing inadequate internal audit and also there was delay of around 3 years in making refund to customer after identifying the issue, as such insurer was not swift in taking corrective action.

Authority notes from the submission that they have identified all such affected 4.66 Lakh policies, an amount of **Rs.4.71 cr** including penal interest for **3.55 lakh cases** has been refunded debiting to shareholder's account and suitable action is taken on other affected policies.

However, in view of insurer rectifying the shortcomings, strengthening the system controls, system process being changed to ensure adherence to F&U guidelines and compensating all the effected policyholders with penal interest without impacting the existing policyholders, no penalty is levied.

The life insurer is **warned** for the violation and hereby directed to be vigilant in complying with F&U guidelines hereinafter. The life insurer is **also advised** to have properly documented comprehensive system audit as a part of compliance, an internal audit

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capable of reviewing and assessing the adequacy and effectiveness of the insurer's adherence to its internal controls, policies and procedures and Board of the company is required to lay down requisite policy framework to ensure that such risks are adequately addressed and IT systems in the company are appropriate with inbuilt checks and balances.

5. Charge – 5

On examination of assignment data provided by the insurer it was observed that the insurer was in practice of assigning the insurance policy taken under employee and employer scheme in favour of employer.

On Assigning the insurance policy which was taken under employer and employee scheme all benefits of the policy will be given to the employer. The practice adopted by the insurance company deviates the purpose of insurance policy taken under Employee and employer scheme.

Violation of Clause 6 of Corporate Governance guidelines of annexure II read with point 5(e) of Annexure 1 on 'Responsibilities of Board of Directors' of circular no. IRDA/F&A/ Cir/ 025/ 2009-10 dated 05/08/2009.

Submission of the insurer:

We submit to the Authority that the referred policies pertain to old cases and a total of 50 employer employee policies have been assigned in favor of employer. We further submit to the Authority that as on March 31, 2016, no death or maturity claims have been paid in any of these policies. However, the company decided to change the process and issued a circular reference CPC/UND/2013-14/043 dated July 5, 2013. In view of the change in the underwriting process of Employer-Employee policies, such assignment scenario is not foreseen and hence we request the Authority to close the observation.

Decision:

Authority takes note of the insurer submission and no charge is pressed.

6. Charge – 6

In respect of product with UIN 111N0078V01 the provisions relating to surrender value and paid-up value were not properly disclosed in the certificate of insurance (COI).



Violation of para C-7 of Group guidelines circular no.015/IRDA/Life/Circular/GI guidelines/2005 dated 14-07-2005, F&U guidelines and Regulation 6(g) of IRDA (Protection of Policyholders' Interests) Regulation, 2002.

Submission of the insurer:

We submit to the Authority that the Certificate of Insurance (COI) under UIN 111N0078V01 distinctly mentioned the surrender benefit and the paid up benefit being available under the insurance cover as per clause 7 of the IRDA Group Guidelines of 2005.

While the COI under the UIN 111N0078V01 mentioned the surrender benefit and paid-up benefit being available under the insurance cover, the formula for surrender benefit and paid up benefit was not detailed due to GSV being Nil and the actual benefits payable would change from time to time.

With effect from July 2013, the Surrender Value and Paid-up value sections have been detailed with the amount payable under the scenarios.

Decision:

Authority takes note of the insurer submission and advises to ensure compliance to IRDA (Protection of Policyholders' Interests) Regulations, 2002 in providing product related information to the insured at the point of sale and in the policy document.

7. Charge – 7

Licenses were granted to the individuals having qualification of X class, without obtaining an appropriate certificate from the respective authorities as to the population of the location.

Violation of Reg.4 (qualifications of the applicant) of IRDA (Licensing of Insurance Agents) Regulations, 2000 while granting license to individuals to act as Insurance Agents.

Submission of the insurer:

The Company has a process wherein nativity certificates are required in all cases where the applicant's (for agency license) qualification is standard X passed, with details of the population of the village or place being referred issued by the respective local bodies/authorities. The Company processes the license application in consideration of the confirmation received through the nativity certificates and also the classification that is tagged in the system. And should these certificates not indicate the population or classify the location, which happens very rarely, we resort to the internal verification, for classification and processing of the application. We submit that in all the sample cases referred in observation, the applicant is from the population of

less than 5000, which is as certified in the nativity certificates and/or as verified as per the Population Census 2011.

Decision:

On examining the sample certificates of the agency applicants in case of candidates with SSC qualification, it was noted that the certificates were either without population figure or with mention of population of the ward only instead of the population of the place and also in one of the nativity certificate population details were handwritten below the certificate.

Thus insurer is advised to ensure compliance to Insurers Board approved policy on appointment of agents in compliance to point B (1) of annexure 1 of IRDAI (Appointment of Agents) Regulations, 2016.

8. Charge – 8

The insurer did not put in place any mechanism to ensure that the Corporate Agent has a CIE in place during the license period of the Corporate Agency w.r.t corporate agents Basra Brothers, Bonanza Assurance Advisors Pvt Ltd, Glory Insurance Pvt Ltd, Matritaw Bhawani Services and Zyron Wealth Management. In good number of cases, the intimation received from the Corporate Agent, as to change in the CIE was not available and as such there was no record as to leaving of old CIE and the period for which there was no CIE for the Corporate Agents.

Violation of Reg 5 (1), Reg. 9(2) (ii) (a) of IRDA (Licensing of Corporate Agents) Regulations, 2002, and clause 7 & 27 of Corporate agents guidelines 017/IRDA/Circular/CA guidelines/2005 dated 14-07-2005.

Submission of the insurer:

While the CIE was appointed and certificates were issued at the licensing stage, the process of record maintenance was however instituted only in May 2010, as per the then directives issued by the Authority. Any changes in the CIE were also noted appropriately, except that copies of the certificates were not available for verification. Further, the Company also duly noted and recorded the changes in the CIEs while it processed the requests for their training, examination and licensing.

We further submit that the company had a process wherein any changes in CIE were noted appropriately and a communication had been sent to all Corporate Agents to ensure controls with respect to CIE exit and to report on changes in CIE status, if any.

We submit that all the relevant records are now maintained for future reference. We further submit that as on date all existing Corporate Agents have CIE in place with valid IRDA certificates.

Decision:

The insurer is expected to monitor at regular intervals and conduct periodic on-site inspections to ensure compliance by the tied corporate agent to the provisions of the IRDA (Licensing of Corporate Agents) Regulations, 2002 and guidelines issued from time to time. The requirements to be met by a corporate agent at the time of licensing should also be complied during the license period and the designated person to issue/renew the corporate agents license being an officer of the insurer, insurer is equally responsible in monitoring the compliance by the corporate agent.

The insurer is warned on not having proper control mechanism and is advised to monitor the operations of the corporate agent on a regular basis and to keep the Authority informed on any adverse findings, if any. Further, insurer is also advised to ensure continuous compliance to Regulation 14 IRDAI (Registration of Corporate Agents) Regulations, 2015.

9. Charge – 9

The inspection report of the corporate agent M/s Bonanza Assurance Advisors Ltd (license no.5111258) indicated that the CA has done 621 policies after expiry of license.

Violation of Authority circular ref.no. IRDA/CIR/011/2003, dated 27-03-2003.

Submission of the insurer:

The company submitted that it continued to accept proposals from M/s Bonanza Assurance Advisors while the license was pending renewal with the Authority in order to ensure that the interest of the policyholder does not get impacted and this was then prevailing industry practice. The license was renewed on 22nd October, 2012 retrospectively i.e with effect from February 4, 2012. The commission for the policies sourced during this period was not paid till renewal of license by the Authority with retrospective effect. However, post November 2013, the company discontinued the practice of accepting business from corporate agents where license had expired and pending for renewal with the Authority. The company had discontinued acceptance of new business from 5 corporate agents during FY 2013-14 as their license had expired and was pending renewal by the Authority.

Decision:

Authority renewed the expired license of the corporate agent from a retrospective date i.e license expiry date, which is only for operational convenience but doesn't mean that insurer is allowed to procure business during the license expiry period while the renewal application was under process. It is the duty of the Insurer and corporate agent to get the licensed renewed well before the due date with submission of all required documents. Though commission is not released by insurer on the business accepted after the license expiry until the license renewal by Authority, insurer act on accepting business is not justified while the renewal application is under process with Authority and when a decision can be on either side.

In view of the violation of the Authority guidelines on accepting the business from the corporate agent after the expiry of license till its renewal, the Authority in exercise of the powers vested under Section 102 (b) of the Act imposes a penalty of Rs.5 lakhs.

10. Charge – 10

- a) It was observed that partnership firms/ private limited companies were appointed as Corporate Agents and were doing exclusive Corporate Agency business.
- b) Insurance should be subsidiary activity of the corporate agents.
- c) Insurer not acting on the Chartered Accountants inspection observations on the activities of the corporate agents.

Violation of provisions of para 1 & 3 of Authority's Corporate Agency guidelines dated 14.07.2005

Submission of the insurer:

As a process, the Company engages with Corporate Agents only when the primary activity of the entity is other than insurance. We undertook the required due diligence measures towards verification at the time of empanelment by examining the Memorandum of Association of the said entities and insurance distribution was specified as subsidiary activity. Further due diligence was also conducted at the license renewal stage and the corporate agent clarified that due to economic and market conditions, primary business activities were severely affected. The proposals were submitted to the Authority on the basis of the documents received from the corporate agent, as required, for necessary issuance of new licenses and renewals thereof.

Decision:

On examining the available documents in respect of sample corporate agents, it is noted that the major part of revenue generated by the corporate agent is from insurance commission with negligible income from sources other than the distribution of insurance products.

However, the Authority notes from the submission that as per Memorandum of Association submitted by corporate agent to insurer, the principal business was not solicitation but due to slump in the market there was a fall in the principal business income of the agent. As such, no charge is pressed and advises the insurer to monitor the activities of the corporate agent on a regular basis and to ensure compliance to IRDAI (Registration of Corporate Agents) Regulations, 2015 and guidelines issued from time to time.

11. Charge – 11

- a) The business solicitation process by Corporate Agents has been examined by going through the Agent Confidential Reports submitted along with the proposals sourced. It was observed that the Corporate Agents engaged unlicensed individuals in soliciting insurance business.
- b) It was also noticed that a single SP of the Corporate Agent has signed the ACR for all the proposals solicited at different districts / states on the same day. This indicates that the Corporate Agent is engaging the unlicensed individuals in soliciting insurance business and logging in the name of licensed SPs.

Violation of Reg. 9 of IRDA (Licensing of Corporate Agents) Regulations, 2002 and clause 8 & 17 of Authority's Corporate Agency guidelines dated 14.07.2005.

Submission of the insurer:

- a) In a few cases, post solicitation of the policy, intimates our employees (based out of the nearest SBI Life branch location) to collect the relevant documents from the customers. Instances have been noted, whereby the employees have erroneously mentioned their codes or source in the Application form for their easy tracking perspective, while collecting these proposal forms.

To reiterate our commitment on regulatory compliance, we have devised a process of getting confirmation on half yearly basis from Corporate Agent on entry and exit of CIE/SP so as to check gap period and location of authorized person to solicit business. Further, at operational level, signature matching of the SP is done before cashiering a proposal.

- b) We have examined the above mentioned proposals and observed that all the proposals were signed and dated at Kolkata although the addresses of the proposers are from different parts of West Bengal. The policies were sourced by SP and not by unlicensed persons.

Decision:

On examining the available documents and sample proposal forms of business solicited by Bonanza Assurance Advisors Pvt Ltd, it is noted that the proposals were solicited by unauthorized persons of the group entities of corporate agent such as Bonanza Portfolio Ltd and Bonanza Insurance Broking Ltd with SP codes 990118656, 990049410, 17827587 & 990232577. Insurer confirmed on one SP code and informed that three other codes were corporate agent codes which were inadvertently mentioned by the SPs instead of mentioning their own SP codes and informed that it had not only terminated its agreement with this corporate agent but also a total of 25 CAs out of 175 for not ensuring compliance.

In view of the violation of the provisions of the Regulation on accepting the business from unauthorized persons, the Authority in exercise of the powers vested under Section 102 (b) of the Act imposes a penalty of Rs.5 lakhs.

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12. Charge – 12

It was observed that few sales brochures appearing on the website of insurer were not filed with the Authority. These sales brochures even do not bear the Advertisement identification number prescribed by the Authority. Similarly, the insurer did not file the web advertisement of the products, which include the Introduction to the product, Key features, Benefits, and Riders available, for any of the product displayed on the insurer's web site.

Violation of provisions of Reg. 3(1)(iii)(v) of IRDA (Insurance Advertisements) Regulations, 2000.

Submission of the insurer:

The Company has a robust process for ensuring that the product related promotional materials are duly approved by the Company and filed with the Authority within the prescribed timelines of Advertisement Regulations. On an average, we file over 1250 advertisements / sales literatures on an annual basis. We have filed the product related landing pages of our website with the Authority on 28th March, 2014. Further, being a certification based re-filing, the riders referred by inspection team were not filed with the Authority. We have however taken note of the concern raised by the Authority and have subsequently filed the rider brochures with IRDA vide letter dated 8th March, 2014.

Decision:

Submission of the insurer is noted and no charge is pressed. However, the life insurer is advised to put in place effective internal controls hereafter so as to ensure compliance at all times to the Advertisement Regulations and guidelines issued from time to time.

13. Charge – 13

The insurer is in practice of absorbing service tax on Swarna Jeevan and Cap Assure products and also difference in service tax on other products due to changes in service tax laws till implementation of the system. Total service tax absorbed on the above cases were Rs 4.94 crore, 15.20 Crore and Rs. 2.34 Crore for the years 2011-12, 2012-13 and for a period of 9 months ending on December, 2013 respectively. These amounts were charged to revenue account for the above financial years and not collected from the concerned policy holders so far.

Violation of Sec.64VB and Section 41 of Insurance Act,1938.

Submission of the insurer:

The Government has modified the Service Tax laws many a times in the recent past such as change in service tax rate, introduction of negative list, etc. In order to ensure

business continuity, the management decides to absorb these kinds of service tax differential components as a routine insurance related business expense. Insurer informed that the the service tax differential amount is absorbed for all products in the interest of the policyholders and to avoid any kind of inconvenience to them, in cases where there is a change in service tax rate and premium notices have already been sent to the policyholders with old service tax rate or a Direct debit mandate for specific renewal premiums had already been obtained from the policyholders with old service tax rates.

Further, the service tax absorption for the mentioned products has been charged to the respective segments falling under Non-Participating category which indirectly gets transferred to Shareholders' Account and not charged to the Policyholders Account.

We submit to the Authority that policies have been issued only after receipt of entire premium payable i.e the premium show in policy document. Further, w.e.f FY 2015-16 the company has disclosed the amount of service tax absorbed under Shareholder's account.

Decision:

The Authority notes from the life Insurer's submissions that the aim to bear the service tax shortfall is to avoid operational inconvenience and insurer management decided to absorb service tax differential component for all products in policyholder interest.

However, it is also noted that the service tax absorbed by insurer majorly pertains to product 'SBI Life Swarna Jeevan' which is a group immediate annuity product. As such, insurer submission of absorbing the service tax due to frequent changes in service tax after premium intimation to customer, direct mandate given by customer and to avoid inconvenience to customer is not convincing.

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 Life Insurer is advised to ensure scrupulous compliance of Section 64VB and Section 41 of Insurance Act, 1938 hereinafter.

14. Charge – 14

On examination of policy wise outstanding premium details as at 31st March, 2013 and 31st March, 2012 provided by the insurer, it was observed that the insurer had recognized the premium on policies on which premium was due for more than a month. The amount of total premiums on such counts was Rs. 54 lakhs and 38 lakhs for the year 2011-12 and 2012-13 respectively. As a consequence, the outstanding premium figures as shown in Schedule 12 had not represented the correct picture of the insurer's assets.

Violation of Sec 64(1)(i)(a) of IA, 1938 read with Reg.2(1)(a) of IRDA (ASLM) Regulations, 2000 and Regulation 2 under Part I of Schedule A of IRDA (Preparation of Financial Statements and Auditor's Report of Insurance Companies) Regulations, 2002.

Submission of the insurer:

- a) Life Long Pension products: As per the product features, policies of Lifelong Pension Plan do not go into lapsation as long as the risk premium can be recovered from the pension corpus on non-payment of premium. Therefore, First Unpaid Premium (FUP) date for the policies can be more than 1 month for these cases.
- b) Policy Cancellations & Others: There were certain policies where premium was due in the month of March and were subsequently cancelled (due to cheque dishonor, claims intimation, etc.). However, the provision for outstanding premium was correctly made for these cases. Overall these cases were amounting to Rs.7.51 lacs and Rs.18.45 lacs for FY 2013 and FY 2012 respectively.

Decision:

Decision is at charge 15 of the order.

15. Charge – 15

It was observed that the insurer had considered leasehold improvements and reinsurance receivables due beyond 90 days as admissible assets while demonstrating statutory solvency requirements as at 31st March, 2013.

Violation of Reg.2 under Schedule I of IRDA (Assets, Liabilities and Solvency Margin of Insurers) Regulations, 2000 and IRDA circular no.12/IRDA/ F&A/Cir/May-09 dated 26-05-2009.

Submission of the insurer:

- a) Leasehold improvements are of the nature of capital expenditure incurred for providing infrastructure in the office premises and these expenses are capitalized as a separate class of assets as per generally accepted accounting principles. The regulation does not explicitly mention about exclusion of lease hold improvement asset class and even if the value is placed at zero for solvency purposes, there is no change in the original solvency ratio. However, we have noted the Authority's suggestion and in future, we shall exclude the leasehold improvements for solvency calculation.
- b) We submit to the Authority that, in the ASM data for the financial year 2012-13, reinsurance amount has been considered under Net current assets and this includes receivables more than 90 days amounting. Even after subtracting the amount from ASM, the solvency ratio is well above the requirement. We have made necessary

modification in the system in order to exclude the reinsurance receivables for more than 90 days from ASM calculations.

Decision for charge 14 & 15:

The Authority notes from the Insurer's submission that the solvency margin is well above the requirement even after placing the assets with zero value. Since, insurer has rectified the methodology for computation of the said ratio in line with the requirement of the Regulation; the charge is not being pressed.

However, insurer is directed to ensure compliance with the Regulation 1 under Schedule I read with Regulation 3 of IRDAI (Assets, Liabilities and Solvency Margin of Life Insurers) Regulations, 2016.

16. Charge – 16

- a) It was observed that in a number of cases, the insurer had treated Single Premium policies as lapsed for the purpose of valuation of liabilities. As a result the said policies were not considered as 'In – Force' resulting into underestimation of liabilities. Actuarial valuation had recognized only 50% of the fund value in respect of such policies.
- b) Policies with Total Permanent Disability benefits which have resulted into claims during the previous financial years have not been valued actuarially. As per the F&U application, the TPD benefits shall be payable in 10 equal yearly installments which should have been valued accordingly as it consists of a series of fixed and certain benefits spread over a long period. The remaining liability was not reflected anywhere in the accounts.
- c) The insurer is in practice of taking flat 50% of the fund value as liability in respect of Unit linked policies lapsed within first year from the of commencement and assumed surrender charge of 100% of fund value under these cases. It was observed that in respect of some products surrender charge on discontinuance was much less than 100% of fund value. As a result, the amount appearing in FFA (Fund for Future Appropriation) was overestimated and on the other side liabilities were under estimated.

Violation of Regulation 2 & 8(b) of schedule IIA of IRDA ASLM Regulations, 2000.

Submission of the insurer:

- a) The status of the policies on which a surrender application has been received and the surrender process has been initiated was captured as 'Surrender Initiated' in IT data to reflect that. Such policies have been considered as 'Lapsed' for the purpose of valuation of liabilities since all other benefits (i.e. life cover, rider cover etc.) need to be discontinued after surrender request. There were 138 such policies as on 31/03/2013, with total FFA amount of Rs.72,68,982/-.

- b) We agree that the instalments payable should have been reflected in the current liability, which has been erroneously missed out for this policy. The same has been corrected now. We have checked for other policies with TPD claim under payment and would like to state that for all such policies future benefit installments are kept as current liability.
- c) Our program coding was incorrect, whereby 50% of the fund value was being recognized as FFA even for products where surrender charge are less than 100%, and as a result unit liability for two policies was reduced to 50% of fund value with corresponding increase in the FFA. The total FFA amounts to INR 29,433 under the two policies.

Decision:

Taking note of the submissions, no charge is pressed. However, the insurer is advised to ensure compliance to Regulation 2,7,8,9 & 10 under Schedule II of IRDAI (Assets, Liabilities and Solvency Margin of Life Insurance Business) Regulations, 2016.

In conclusion, as directed under the respective charges, the penalty of Rs. 10 lakh (Rupees Ten lakh only) shall be debited to the shareholders' account of the life insurer and the amount shall be remitted to Insurance Regulatory and Development Authority of India within a period of 15 days from the date of receipt of this Order. The penalty shall be remitted through the NEFT as per details being intimated to the insurer as per a separate e-mail. The transfer shall be made under intimation to Mr.Prabhat Kumar Maiti, JD-Enforcement.

Further,

- a) The Life Insurer shall confirm compliance in respect of all the directions referred to in this Order, within 15 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 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 Securities Appellate Tribunal as per Section.110 of the Insurance Act, 1938.

Place: Hyderabad
Date: 19.09.2016


(V R IYER)
Member (F&I)

