



Ref: IRDA/Enf/ORD/ONS/078/04/2017

Final Order in the matter of

M/s Tata Motors Insurance Broking & Advisory Services Limited

Based on reply to the Show Cause Notice dated 3rd October, 2016 and submissions made during Personal Hearing on 11th November, 2016 at 11-30 am taken by Member (F&I) at the office of Insurance Regulatory and Development Authority of India, 3rd Floor, Parishrama Bhavanam, Basheerbagh, Hyderabad.

Background:

The Insurance Regulatory and Development Authority of India (hereinafter referred to as "the Authority") carried out an onsite inspection of M/s Tata Motors Insurance Broking & Advisory Services Limited (Hereinafter referred to as "broker") during 7th to 9th October, 2015.

The inspection was intended to check the compliance of the broker to Insurance Act, 1938, IRDA Act, 1999 and the Rules, Regulations, Circulars, Guidelines and other directions issued there under by the Authority. The inspection covered the activities of the broking firm related to the period of three financial years 2012-13, 2013-14 and 2014-15.

The Authority forwarded a copy of the report of the said inspection to the broker seeking comments on 29th December, 2015 and the broker's reply was received vide their letters dated 22nd January & 7th April, 2016. Upon examining the submissions made by the broker, the Authority issued Show Cause Notice on 3rd October, 2016, which was responded to by the broking firm vide letter dated 26th October, 2016. As requested therein, a personal hearing was given to the broking firm on 11th November, 2016. Mr. Tarun Samant, CEO & PO, Mr. V.Seethapathi Iyer, Chief Operating Officer and Mr. Bhanu Bhai Sharma, CFO were present in the hearing on behalf of the broking firm. On behalf of the Authority, Mrs V.R.Iyer, Member (F&I), Mr. Prabhat Kumar Maiti, GM (Enforcement), Mr.Suresh Nair, DGM (Intermediaries) and Mr. K.Sridhar, AGM (Enforcement) were present during the personal hearing.

The submissions made by the broking firm in their written reply to the Show Cause Notice, the documents submitted in evidence of their submissions in reply and also those made in and after the personal hearing have been considered by the Authority and accordingly the decisions thereon are detailed below.

Charges, Submissions in reply thereof and Decisions:

1. Charge No. 1:

As per inspection observation, the broking firm has 69 branch offices across 10 States as on 31st March, 2015 and on this; the submission of broking firm is accepted on having only 10 branch offices and not 69.

However, on examining the certified document provided to the inspection team on the existing branch offices and the document provided with the broking firm reply, it is observed that the broking firm is operating from two branches in Hyderabad, whereas information of only one branch is provided to Authority. The address of the branch office not informed to Authority is at " DBS Business Centre, DBS House, No.1-7-43-46, beside fire station, SP road, Secunderabad-3".

Violation of Regulation 38(4-i) of IRDA (Insurance Brokers) Regulations, 2013 by not informing the Authority on the opening of another branch office in Hyderabad.

Submission of Broker:

We thank the Authority for accepting our earlier submissions that we did mention that we do not have 69 branch offices (we had at that point of time those many broker certified employees on our rolls which was erroneously captured) and accordingly there was also no negative observations on key management personnel and about their trainings, qualifications and suitability of performance of the functions of the company.

We informed the Authority vide letter dated 22/05/2015 on the commencement of our operations from Begumpet office in Hyderabad and vide another letter dated 04/08/2015 we intimated Authority about closure of our branch office at DBS house, Hyderabad. We are confident that it shall be on record that we complied with sub-clause 4 of Regulation 38 about the change/addition in the information previously furnished to the Authority for the opening / closing of the branch offices.

We also assure the Authority that in future as well we would continue to make full disclosures for any material change on a timely manner with regard to our broking company.



Decision:

Taking note of the broking firm submission, the charge is dropped. However, the Authority's observations as at para 7 of this order below may be taken note of by the broker.

2. Charge No.2

It is noted from the broking firm reply that, in its new agreement entered with the service vendor M/s TBSS, 12 Plug and play 'type 3' seats were reserved for supervisory and managerial personnel, its cost to be reimbursed at existing CTC as per TBSSL records to the employees of vendor and there is no specific area requirement sought for this requirement. Thus core and supervisory jobs to be performed by the broking firm are outsourced to the service vendor.

Violation of

Regulation 31(1) of IRDA (Insurance Brokers) Regulations, 2013 by not having proper internal controls and systems at the brokers office.

Submission of Broker:

The company has not engaged the services of the vendor M/s TBSS for any of the core and supervisory jobs and the vendor was engaged only for infrastructure requirements to enable the broking company to effectively carry the tele-marketing activities for distant marketing of insurance products. The broking firm has transferred/deputed its own managerial/supervisory employees to perform the relevant core activities of supervision/management of the tele-calling function.

While drafting the agreement during May 15, this 'type-3' seats has been kept as an emergency provision only in the agreement and has never been invoked due to the fact that subsequent to the agreement signing we were well informed that core activities such as supervisory/managerial is only to be performed by the broking agency. Hence never used the vendor's employees on CTC basis for the supervisory purpose, which only remained in the agreement and never invoked.

Decision:

The broking firm application for license was considered on being informed of having necessary infrastructure, such as, adequate office space, equipment

 3

and trained manpower to effectively discharge its activities; As such, the broking entity is expected to do on its own all core activities/supervisory /managerial jobs.

Taking note of the broking firm confirmation that none of the core jobs were outsourced, though they were part of the service agreement. The broking firm is advised to file a copy of the revised agreement/addendum after excluding the core activities referred at sl.no.1 of annexure B to the service agreement and to be cautious henceforth before entering into such agreements.

3. Charge No.3

The broking firm was asked to provide the proposal forms of sample policies issued during October, 2015 pertaining to motor dealers in five different districts. The broking firm could not produce any of those proposal forms. As per the details submitted by the entity it was found that none of the employees of the broker were serving in the districts from where the sample was sought.

Violation of

- Regulation 4(1, 4 & 5) of PPH Regulation, 2002 and Point 6 of Schedule 8 of Brokers Regulations, 2013.
- Point 3(b) of Schedule VIA on Code of Conduct of IRDA (Brokers Regulations) 2013.
- Point 2 (h, c & g) & 16 of Schedule VIA on Code of Conduct read with Regulation 28 of IRDA (Brokers Regulations) 2013.

Submission of broker:

We have been increasing our filed employee count, broker certified/POSP certified and also expanding our reach across the country. We implemented a compliant tele-calling process since August 2015 and ramped up in phased manner. During the process of ramping up there were few spots where-in we could not cover the gaps and the four policies observed by the Authority during inspection pertains to such locations.

We agree that the four sample policies sought are among the exceptions wherein at that point of time, we did not have the manpower for physical solicitation process. While we are conscious of such lack of coverage of select remote locations, we are taking the necessary quick corrective actions to ensure



collection of proposal & mandate forms during solicitation by TMIBASL team going forward.

Decision:

In response to the Authority letter dated 11/10/2013, the broking firm vide email dated 18/10/2013 has assured to carry out necessary business model changes so as to ensure collection of mandate letter and proposal form.

However, during on-site inspection, it was observed that the broking firm has not collected the proposal forms in the four sample cases examined. In spite of an assurance being given to the Authority, the broking firm failed to ensure compliance to its submission. Even after two years of assurance given to Authority by the broking firm, the licensed entity failed to comply in collecting proposal form in respect of observed sample of four policies sourced during October, 2015.

Henceforth, the broking firm is directed to ensure compliance to Regulation 4 of IRDA (Protection of Policyholders' Interests) Regulations, 2002 by having proper control mechanism and any failure in compliance observed hereinafter would be viewed seriously.

4. Charge No.4

The broking firm submitted a confirmation to the inspection team that the firm has not solicited any business through telemarketing during the FYs 2012-13, 2013-14 & 2014-15. On examining the available documents it is noted that the broking firm submitted a false submission to Authority. It is evident from the available documents that the service vendor M/s TBSS was offering services such as SMS services, solicitation, renewal calling, inbound call activity, providing information about policies of insurance etc to the broking firm prior to November, 2013. Further broking firm too confirmed in its reply dated 7th April, 2016 that M/s TBSS is licensed by TRAI and is operating under distance marketing guidelines.

Violation of Regulation 41(d) of IRDA (Insurance Brokers) Regulations, 2013.

Submission of broker:

It is submitted that, during the process of inspection and thereafter, the broking firm did not provide or make any false submission to the Authority on business solicitation. Driven by the new broking regulations released during Nov 2013,



TMIBASL did not pursue any insurance business from Nov 2013 to May, 2014, as the company was not in possession of a valid broking license. Similarly no payment was made to TBSS for FY 2014-15, as the engagement and scope of business with TBSS has considerably been reduced as the core banking activities were being built into TMIBASL's capabilities.

We have institutionalized the telemarketing solicitation process since August 2015 while simultaneously increasing the solicitation through other compliant modes such as physical solicitation by broker certified employees and POSP certified employees positioned at dealerships of the network. We have also augmented our organization's manpower from 70 in 2014 to 260+ as on date.

Whatever has been reported in the observation have already been considered for renewal of license at May, 2014 and even the order dated October 11, 2013 has viewed most of the concerns stated in the above observation. Our humble submission is that since IRDAI has already taken action based on these concerns, may please not be repeated again and that too when positive actions are being taken by the broking company.

Decision:

The broking firm submitted an incorrect confirmation to the inspection team on tele marketing activities. In the confirmation dated 7th October, 2015 provided to the inspection team, the broking firm stated that no business solicitation was done through tele marketing during FYs 2012-13, 2013-14 & 2014-15. On examination of the available documents, it is noted from an internal note of the broking firm that the vendor TBSS was involved in renewal calling & solicitation, inbound call activities, SMS services etc and also the broking firm at page 5 of its reply letter dated 7th April, 2016 has also confirmed that the vendor TBSS was licensed under TRAI and was operating under distance marketing guidelines.

The broking firm is strictly warned to ensure utmost caution while submitting any information / confirmation to the Authority. In case of Authority noticing of broking firm furnishing any wrong or false information; or conceals or fails to disclose material facts, the act of broking firm would be viewed seriously and an appropriate action would be initiated.

Further, the Authority's observations as at para 7 of this order may be taken note of by the broker.



5. Charge No.5

It was observed that the Broker was not providing any comparison to the clients to enable them to make an informed decision in respect of purchase of insurance policies.

Violation of

- Point 3(h), Point 2 (c,g & h) & 16 of Schedule VIA on Code of Conduct read with Regulation 28 of IRDA (Brokers Regulations) 2013.
- Point I(a,b&c) of Schedule I of IRDA (Brokers Regulations) 2013 on Functions of direct broker and point 6 of Schedule VIII of IRDA (Insurance Brokers) Regulations, 2013,
- Regulation 3(2 &3) of IRDA (Protection of Policyholders Interests) Regulations, 2002 by not guiding the prospect properly at the point of sale.

Submission of Broker:

Insurance solicitation process of TMIBASL includes providing comparison to the customers as a part of insurance soliciting process. In our efforts under distance marketing guidelines, we do differentiate and advice the customers about the different insurers, their products, explaining them the suitability of the products they choose and we do not influence or bind our customers to choose any particular product / or products of any particular insurer. The broking firm business of Tata vehicles is placed with 7 insurers which indicate that an option was given to the end customer and they choose from various options based on their suitability of the product.

Decision

The submission of the broking firm is noted and no charge is pressed.

6. Summary of Decisions:

The following is the summary of decisions in this order:

Charge No.	Brief Title of charge and the provisions violated	Decision
1	Charge: It is observed that the broking firm is operating from two branches in Hyderabad, whereas information of only one branch is provided to Authority. Provision: Regulation 38(4-i) of IRDA (Insurance Brokers) Regulations, 2013.	Submission noted, no charge pressed.

 7

2	<p>Charge: core and supervisory jobs to be performed by the broking firm are outsourced to the service vendor.</p> <p>Provision: Regulation 31(1) of IRDA (Insurance Brokers) Regulations, 2013.</p>	Submission noted, no charge pressed.
3	<p>Charge: The broking firm could not produce the sample proposal forms sought by inspection team.</p> <p>Provision:</p> <ul style="list-style-type: none"> - Point 2 (h, c & g) & 16 of Schedule VIA on Code of Conduct read with Regulation 28 of IRDA (Brokers Regulations) 2013. - Regulation 4(1, 4 & 5) of PPH Regulation, 2002 and Point 6 of Schedule 8 of Brokers Regulations, 2013. - Point 3(b) of Schedule VIA on Code of Conduct of IRDA (Brokers Regulations) 2013. 	Direction
4	<p>Charge: Submitting incorrect information to inspection team on tele marketing activities</p> <p>Provision: Regulation 41(d) of IRDA (Insurance Brokers) Regulations, 2013</p>	Warning
5	<p>Charge: Broker not providing any comparison to the clients to enable them to make an informed decision</p> <p>Provision:</p> <ul style="list-style-type: none"> - Point 3(h), Point 2 (c,g & h) & 16 of Schedule VIA on Code of Conduct read with Regulation 28 of IRDA (Brokers Regulations) 2013. - Point 1(a,b&c) of Schedule I of IRDA (Brokers Regulations) 2013 on Functions of direct broker and point 6 of Schedule VIII of IRDA (Insurance Brokers) Regulations, 2013. - Regulation 3(2 &3) of IRDA (Protection of Policyholders Interests) Regulations, 2002. 	Submission noted, no charge pressed.

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8

7. While the paragraphs above convey the decisions of the Authority in regard to the issues that have emerged out of the inspection of your company during 7-9 October, 2015 the broker is directed to take note of the following observations which have become necessary to be brought to their notice for the grounds and reasons mentioned hereunder.

Observations:

While responding to the observation under Charge No.1 above which speaks of the failure of the broking company to intimate to the Authority about the functioning of one of their branches in Hyderabad, the Broker has thanked the Authority for accepting their earlier submissions. While doing so, the broker has artificially annotated their own conclusion that there was no negative observation (by the Authority) on key management personnel and about their trainings, qualifications and suitability of performance of the functions of the company and has attempted to attribute such a conclusion as that of the Authority. In this connection, it is made categorically clear that the Charge No.1 spoke of how the failure to intimate about the operation of one of its branches in Hyderabad led to violation of the Regulations and made no mention or reference about the key management personnel or about their trainings, suitability etc.

Similarly, while responding to Charge No.4, which spoke of the wrong submission made by the broker that they did not use the services of telemarketing, the broker under para 7 of their reply has stated that the concerns expressed in the observation have been considered by the Authority during the renewal of their licence in May 2014 and the order dated 11-10-2013 has addressed most of the concerns stated in the observation No.3. In this connection, the broker must note that a reading of the order dated 11-10-2013 reveals that the violations for which they were penalised do not involve activities like telemarketing and was for the violation of the various Regulations of IRDA (Insurance Brokers) Regulations, 2002. Hence, it is unduly presumptuous on the part of the broker to contend that the concerns raised in the SCN under charge no.4 have been addressed by the order dated 11-10-13.

In the light of the above observations, it is made clear to the broker that the decisions and directions contained in this order relate and are confined to the observations and issues that sprang up out of the inspection carried out during 7-10 October, 2015, and hence are without prejudice to the powers available to the Authority under the Act and Regulations to take action including penal action against the broker for any violations, which are connected or unconnected with the violations in the SCN dated 3-10-16, that may be noticed subsequent to the issue of this order.



8. Conclusion:

(a) The broking firm shall confirm compliance in respect of all the directions referred to in paras 1 to 6 of this Order, within 21 days from the date of receipt of this order.

(b) The Order shall be placed before the Audit committee of the broking firm and also in the next immediate Board meeting and the licensed entity shall provide a copy of the minutes of the discussion.

9. If the broking firm 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.



(V.R. Iyer)
Member (F&I)

Place: Hyderabad

Date: 6th April, 2017

