



भारतीय बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY OF INDIA

IRDA/F&I/ORD/ F&A/126/07/2015

Final Order in the matter of Tata AIA Life Insurance Co. Ltd. regarding returns filed u/s 31B (2) for the financial year 2012-13

Based on the submissions to Show Cause Notice dated 28th April 2014 and personal hearing chaired by the then Member (F&I) Shri R.K. Nair on 19th June 2014 at the office of the Insurance Regulatory and Development Authority of India, 3rd Floor, Parishram Bhavan, Basheerbagh, Hyderabad.

The Insurance Regulatory and Development Authority of India (herein after referred to as "the Authority") issued a certificate of registration bearing No.110 to Tata AIA Life Insurance Co. Ltd. (herein after referred to as "the insurer") on 12th February 2001 to carry on business of Life Insurance in India in terms of Section 3 of the Insurance Act, 1938. The said certificate of registration is further renewed on 1st April 2014. In terms thereof the insurer was subject to the terms and conditions of the certificate of registration and was also required to abide by the provisions of the Insurance Act, 1938 (herein after referred to as 'the Act'), the Insurance Regulatory and Development Authority Act, 1999, particularly the Insurance Regulatory and Development Authority (Licensing of Corporate Agents) Regulations, 2002 (herein after referred to as 'the Regulations') and other directions issued by the Authority from time to time by way of circulars and/or guidelines, particularly, Circular no.017/IRDA/Circular/CA Guidelines/2005 dated 14th July 2005 (herein after referred to as 'the Guidelines').

Charge:

On review of the data filed by the insurer with the Authority in accordance with IRDA circular no. IRDA/F&I/CIR/DATA/066/03/2012 dated 2nd March, 2012 for the financial year 2012-13, it was observed that the insurer has made payouts towards

- i. monthly production bonus - Rs. 0.53 crore,
- ii. infrastructure support - Rs. 9.23 crore,
- iii. space for Advertisement - Rs. 3.99 crore and
- iv. miscellaneous payment - Rs. 2.47 crore,

Totalling Rs. 16.23 crore apart from permissible commission to corporate agent United Bank of India in violation of Clause 21 of the Guidelines.

The Authority communicated the findings to the insurer on 7th August, 2013 and sought explanation. The insurer submitted its response vide letter dated 27th August, 2013. Further clarifications were sought from the insurer to which the response was submitted vide letter dated 14.09.2013. The Authority examined the said reply and issued Show Cause notice vide letter dated 28th April 2014. The insurer submitted reply in response to Show Cause notice on 20th May 2014. As requested by the insurer, a personal hearing was given with Shri R.K. Nair, Ex-Member (F&I) in the chair.

Insurer's submission:

The insurer indicated in reply letters dated 27th August 2013 / 19th June 2014 that the miscellaneous expenses of Rs 2.47 crore were on account of refund of commission claw back on discontinued policies sourced by the corporate agent and the monthly production bonus is in the nature of commission and is included in the commission expenses disclosed in Schedule 2 of financial statements.

The payments towards sponsorship and business promotion and infrastructure expenses were at fixed rate and not in any way linked to the business generated by the Corporate Agent. The insurer entered into a contractual agreement with the corporate agent for availing these services. The United Bank of India is Corporate agent since February 2004 and has done ₹ 378.37 crore of business in past 2 years with 93,094 policyholders spread across 1680 branches of Corporate agent thereby making it necessary for the insurer to service these policyholders through Corporate Agent branches itself. These policyholders are also bank customers. An arrangement with the Corporate agent to provide table space in their branches is referred to in a contract for infrastructure services. Insurer further mentioned that the copy of agreement for providing Infrastructure services and joint publicity advertisement has been filed with the Authority vide letter ref TALIC/COMP/IRDA/2013/174 dated 31st May 2013.

Decision:

It is obligatory on the part of the corporate agent to provide pre/post sale services to prospects/policyholders / provide adequate support to the insurer in terms of furnishing necessary information of the policyholders as indicated u/s 64 VB(4) of the Act and Regulation 9 (1) (e) & (f) and 9 (2) (iii) of the Regulations 2002

Insurer's reference to letter dated 31st May 2013 as an intimation/filing of the agreements with their corporate agents to the Authority is not tenable. In this regard, the Authority hereby reiterates its stand vide circular no. GEN/CIR/018/May-04 dated 24th May 2004 wherein it has been clarified that the approval of the Authority should not be taken as implicit unless formal approval is conveyed. It is also observed that while the agreements were effective from April 2012, they were submitted to the Authority in May 2013 which indicates that the agreement was submitted after its execution.

In the light of the above, payments other than commission made by the insurer to the corporate agent viz., United Bank of India (excepting the refund of commission claw back in the nature of Miscellaneous payouts) are in violation of the provisions of clause 21 of the Guidelines.

It is also observed that the insurer was penalized for excess payouts to corporate agents in the financial year 2010-11(order dated 13th August 2012) and in the financial year 2011-12 (order dated 11th December 2013). As such excess payouts observed in the FY 2012-13 is a repeated violation (considering the fact that no corrective action was taken by the insurer post penalty order dated 13th August 2012 for the violations of FY 2010-11)

Having regard to the facts of the case and the repeated nature of violations committed by the insurer, the Authority in exercise of powers vested under section 102 of the Act:

- i. Imposes a penalty of ₹ 10,00,000 (Rupees Ten Lakh only) for the above violation (₹ 5 lakh multiplied by 2).

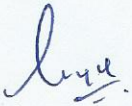
- ii. The Chief Executive Officer (CEO) of the Company shall furnish a compliance certificate duly approved by the Board that no agreement with the Corporate Agents exists which is in violation of Clause 21 of the Corporate Agent Guidelines, 2005 or Section 40A of the Insurance Act, 1938 as on date. Any agreements which may presently be in violation of the guidelines shall be discontinued forthwith
- iii. The insurer is further directed to strictly adhere to the Act/ Regulations/ Guidelines /Circulars issued in this regard from time to time.

The penalty of ₹ 10 Lakh (Rupees Ten lakh only) shall be remitted within a period of 15 days from the date of receipt of this Order by the Insurer through NEFT/ RTGS (details for which will be communicated separately). An intimation of remittance may be sent to Dr. (Ms) Mamta Suri, Sr. JD (F&A) at the Insurance Regulatory and Development Authority of India, 3rd Floor, Parishrama Bhavan, Basheer bagh, Hyderabad 500 004.

The penalty amount shall be debited to shareholder's account.

Compliance certificate shall be filed by the CEO by 30th September 2015

Place: Hyderabad
Date: 03 July 2015


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

