



बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY

Ref: IRDA/LIFE/ORD/CAGTS/073/03/2012

Order in the matter

Of

M/s Max New York Life Insurance Company Ltd

1. Max New York Life Insurance Company (herein after referred to as "the Insurer" has been granted a certificate of Registration bearing no.104 on 15.11.2000 by Insurance Regulatory and Development Authority to conduct business of Life Insurance in India. In terms thereof, the insurer was subject to the terms and conditions of the registration granted to it and was also required to abide by the relevant provisions of the Insurance Act, 1938 (hereinafter referred to as 'the Act'), the Insurance Regulatory and Development Authority Act, 1999 (hereinafter referred to as 'the IRDA Act, 1999'), the Insurance Regulatory and Development Authority (Licensing of Corporate Agents) Regulations, 2002 (hereinafter referred to as 'the Regulations') and other directions issued by the Authority from time to time by way of circulars and/or guidelines and particularly, Circular No. 017/IRDA/Circular/CA Guidelines/2005 dated 14th July 2005 (hereinafter referred to as 'the Guidelines').
2. The Insurer had granted a license bearing no. 2498927 on 20th July,2006 to M/s Abira Insurance Services Ltd (hereinafter referred as 'the corporate agent') to act as a corporate agent on its behalf for a period of three years, which was subsequently renewed on 19th July, 2009 and is valid upto 19th July,2012. Before granting and renewing the license, the insurer is required to verify compliance by the corporate agent of provisions of the Act, Regulations, guidelines and circulars issued by the Authority in this regard.
3. By virtue of powers vested in the Authority under section 14 (2) (h) of the IRDA Act, 1999 the Authority has conducted an On Site Inspection of Abira Insurance Services Ltd, Kolkata on 29th February 2008. Based on the findings of the inspection report, the Authority issued a notice to Show Cause vide letters dated 11th November,2009 & 9th April,2011 to the insurer. Responses dated 16th December 2009 and 16th June 2011 were received from the insurer to the above referred show cause notices. On the request of the insurer, an opportunity for personal hearing was granted by Chairman,IRDA to the Insurer on 14th February 2012. The company was represented by Sri Rajesh Sud, CEO, Sri Ashish Vohra, Sr.Director and Chief- Distribution and Sri Rajiv Mathur, Head-Legal and Compliance. On behalf of IRDA, Sri Kunnel Prem, CSO (Life), Sri Suresh Mathur, Sr.JD and Sri Manish Mishra, AD were present. Based on all the responses submitted by the insurer as well as the contentions during the course of personal hearing, the following decisions have been taken on each of the charges:

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i) **Charge 1:** Abira Insurance services is a "person" floated by same set of individuals who belong to M/s Golden Trust group. This is in violation of Clause 5 of Guidelines issued on Licensing of Corporate Agents vide Circular No.017/IRDA/Circular/CA Guidelines/2005 dated 14th July, 2005.

Decision: The corporate Agent has denied the charges and stated that Abira Insurance Services is having an independent and distinct identity without belonging to any group and exclusively engaged in distribution of insurance products of MNYL. However on examination of the inspection observation and reply of the insurer, it is observed that the following three corporate agency licenses are granted by LIC and MNYL:-

S.No.	Name of the corporate agent	License Number	Granted on	Further renewed on	Name of the Insurer
1	Golden Trust Financial Services	1416667	06.10.2003	06.10.2006 and was valid till 05.10.2009	LIC of India
2.	Golden Trust Multi Services	1341288	13.08.2003	Was valid till 12.08.2006	Max New York Life
3.	Abira Insurance Services Ltd.	2498927	20.07.2006	Valid upto 19.07.2012	Max Newyork Life

Mr.Babaesh Majumdar is promoter of the entity at S.No.1 above and holding 89% share in the said entity. The major share holder in the entity at S.No.3 is Mrs. Abira Majumdar D/o Babesh Majumdar. Her stake in the said entity is 79.72%. Hence in terms of Clause 5 of Guidelines, the above two entities are regarded as being in same group. The insurer has failed in obtaining solemn affirmation of insurance related activities of the group companies of the corporate agent and also failed in referring the application to the Authority for obtaining prior approval before granting second license in the same group.

Further, it is also observed that the insurer has granted license shown at S.No.2 in 2003 to M/s Golden Trust Multi Services which was valid upto 12.08.2006. The following three persons were partners in the said entity:-

- a. Ms. Abira Majumdar
- b. Mr.Amitava Sengupta
- c. Mr.Subrata Majumdar

All the above persons listed at a,b& c were shareholders in M/s Abira Insurance Services which was granted a license mentioned at S.No.3 of above table by the same insurer on 20.07.2006 . This is a clear violation of Clause 5 of the

Guidelines. The Authority hereby imposes a penalty of Rupees Five Lakhs for this violation under Section 102(b) of the Insurance Act, 1938

ii) **Charge 2:** Vide letter dated 16th December, 2006 the insurer has offered extra payouts to the corporate agent to the tune of 2.5% of premium in respect of renewals affected on sale of Max Mangal and Max Vriksha products which is in violation of section 41 of Insurance Act, 1938 and Clause 21 of Guidelines.

Decision: The insurer submitted that the additional incentive payout was nothing but an offer of (additional) renewal commission to the corporate agent in line with limits prescribed under Section 40A of the Insurance Act. Further they have also confirmed that no payment has been made in terms of letter referred above. **The submissions of the insurer have been examined and the charges are not pressed.**

iii) **Charge 3:** It is observed that the following specified persons of the corporate agent are also holding similar position with another corporate agent namely, Golden Trust Financial Services Ltd

Mr Arup Ranjan, Mr Poddar, Chandan Jash, Siddartha Roy, Rakesh Kumar, Amit Karak, Susanta Pal, Partha Sarathi Saha, Rajarshi Guha Mallik, Harshnath Jha, Sandip Sarkar.

This amounts to violation of Regulation 9(2)(iv) of Regulations.

Decision: The insurer submitted that since there is no control mechanism in agency licensing portal to check this aspect, they could not verify the discrepancies mentioned above. Further all the above listed SP's have resigned in 2009. **This aspect is elaborately examined and recognizing the operational difficulties involved, charges are not pressed.**

iv) **Charge 4:** Clause 10 of the Corporate Agency Agreement mentions that all collections towards initial payment/ renewal premiums collected will be promptly remitted to Insurer GO at Kolkata.

This clause did not mention specific time interval within which the premium collected has to be remitted to insurer. Hence this clause is vague in its meaning and is in violation of provisions of Section 64VB (4) and Clause 20 of Guidelines.

Decision: The insurer has submitted that Clause 13.4 (C) of the said agreement makes it amply clear that the premiums collected were required to be deposited within 24 hours of their collection in accordance with provisions of Section 64 VB of Insurance Act, 1938. The insurer further submitted that it had ensured that the corporate agent was complying to requirements of Section 64VB of the Act. **The charge therefore is not pressed.**

v) **Charge 5:** The corporate agent is a person formed exclusively for doing insurance intermediation. Clause 4 of the guideline specifies that grant of corporate agency to such companies can be considered only if they are set up by insurance professionals or its employees are insurance professionals. The insurer has granted corporate agency license without verifying the insurance qualifications of either promoters or employees thereby violated provisions of Clause 4 of Guidelines.


Decision: Insurer submitted that the directors of the company were well qualified to set up the corporate agency. Moreover, clause 4 has not indicated a specific qualification requirement for being termed as a 'insurance professional'. They further submit that the business was being conducted by full time employees and qualified persons – CIE and Specified Persons, as prescribed in the guidelines. ***The submissions of the insurer are hence accepted and charges not pressed.***

vi) **Charge 6:** In a communication to the corporate agent you have directed to document proof of residence for address change requests if total annualized FYP on all MNYL policies held by client exceeds Rs 10000 and in your reply you have expressed difficulty in collecting details from policyholders particularly with regard to policies held by him with other insurers.. Hence your communication referred above is in violation of Clause 3.1.1(viii) of Master Circular 2010 issued on AML/Counter-Financing of terrorism Guidelines date 24.9.2010.

Decision : The insurer has submitted that they had already issued a circular in March,2007 which indicates that for all cases/contracts/proposals wherein the total annualized premium under all policies held by single individual is upto Rs.10000.00 shall be exempted from the submission of recent photograph and proof of residence . The Insurer further submitted that they had only represented to the Authority the practical difficulties in obtaining information on policies of other life insurers held by their policyholder. However their instructions were totally in compliance to the AML Circular issued by the Authority. ***The submissions of the insurer are hence accepted and charges not pressed.***

4. Accordingly, in exercise of the powers conferred upon me under the provisions of the Insurance Act, 1938, I hereby direct the insurer to remit the penalty of Rs Five lakhs (Rs. 5 lakhs) within a period of 15 days from the date of receipt of this Order through a cross demand draft drawn in favour of Insurance Regulatory and Development Authority and payable at Hyderabad which may be sent to Mr. Kunnel Prem, Consultant & Special Officer (Life) at the Insurance Regulatory and Development Authority, 3rd Floor, Parisrama Bhavan, Basheer Bagh, Hyderabad 500 004.

Date: 22.03.2012.
Place: Hyderabad.


(M. Narayan)
CHAIRMAN