



Order in the matter of MAGMA HDI GIC Ltd

Based on the

(i) Show Cause Notice (hereinafter referred to as "SCN") reference No. IRDA/Enf/SCN/2019/NL/Magma_Insp.rpt dated 24th February, 2020 in connection with the on-site inspection conducted by the Insurance Regulatory and Development Authority of India ('the Authority' or 'IRDAI') during 18th to 29th December, 2017.

(ii) Magma HDI General Insurance Co Ltd's ("Magma HDI" or "the insurer") response dated 13th March, 2020 to the aforesaid SCN.

(iii) The submissions made by the insurer during the Personal Hearing held on 2nd June, 2020 at 4.00 PM, taken by the Chairman of the Authority at its office at Hyderabad.

Background:

2. The IRDAI had conducted an onsite inspection of Magma HDI GIC Ltd during 18th to 29th December, 2017. The inspection report, inter alia, revealed certain violations of provisions of the Insurance Act, 1938, Regulations, Guidelines and various circulars issued thereunder.

3. A copy of the inspection report was forwarded to Magma HDI GIC Ltd on 13th June, 2018 seeking their response. On examining the submissions made by the insurer vide letters dated 2nd August, 2018 and 8th March, 2019, a Show Cause Notice was issued on 24th February, 2020. The insurer sent a reply vide letter dated 13th March, 2020.

4. As requested by the insurer, an opportunity for personal hearing was granted on 2nd June, 2020. Mr. Rajive Kumaraswami, MD & CEO, Mr. Amit Bhandari, CTO, Mr Gaurav Parasrampuriya, CFO and Mr. Anand Roop Choudhary, CCO were present in the personal hearing on behalf of the insurer. On behalf of the Authority, Mr. Suresh Mathur, ED (Surveyors), Mr. Prabhat Kumar Maiti, GM (Enforcement) and Mr. K. Sridhar, AGM (Enforcement) were present.

5. The submissions made by the insurer in reply to the SCN and those made during the personal hearing on 2nd June, 2020 and submissions made post personal hearing vide letter dated 15th June, 2020 have been carefully examined.

6. Charge

- Violation of Regulation 12(1 & 2) read with Regulation 3 and 4 of the IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015.
- Violation of Para 6 (c) of the Corporate Governance guidelines issued by the Authority vide circular No. IRDA/F&A/GDL/CG/100/05/2016 Dt. 18th May, 2016 on not having proper internal control mechanism by continuing engaging unlicensed individuals for survey jobs even after confirmation of the insurer vide letter dated 12th December, 2016.

SCN

7. Inspection observation:

The insurer used employees without having a valid licence issued by the Authority, for the purpose of survey under motor claims in excess of Rs.50,000/-.

The insurer vide their e-mail dated 26th December, 2017 submitted that "*in-house surveyors are being used so that there is transparent, efficient & fast claim settlement which in turn improves the service level & increases customer satisfaction. All claims above Rs.50000/- initially assessed by in-house surveyors are duly scrutinized by licensed surveyors (in-house or external) for confirmation of loss assessed. The existing team of licensed surveyors additionally supervises such claims so that proper assessment of these losses is done to avoid any undue inconvenience to our customers.*"

It was noticed that a similar issue was observed during the previous on-site inspection of the Authority during 17-26 June, 2014.

As per the inspection report, the insurer has utilized the services of unlicensed surveyors for motor claims assessment in respect of 196 settled claims above Rs.50,000/-, during the period of 12th December, 2016 to 31st March, 2017.

8. Summary of the submission of the Insurer:

The insurer submitted that its exposure in rural & semi urban areas is high and is serving claims in 486 locations out of which 75% falls in rural & semi urban areas where availability of independent licensed surveyors is comparatively lower. Hence, to ensure better customer servicing the company created a network of in-house surveyors in those areas which were supervised by 9 licensed surveyors.

The insurer submitted that during FY 15-16 & FY 16-17, only 1777 claims were surveyed by unlicensed in house surveyors which were only 3% of the total claims. It further stated that it has taken necessary steps to ensure that all motor claims above Rs. 50,000/- are initially assessed by in-house surveyors and are duly scrutinized by licensed surveyors (in-house or external).

The insurer informed that in its response dated 12th Dec-2016 to the earlier inspection show cause notice; it had assured the Authority that the company had taken suitable steps to rectify this and accordingly the Company had implemented the same w.e.f. January 01, 2017. Further, it stated that it has put in necessary system controls w.e.f. June 01, 2018 where no unlicensed surveyor will be able to undertake motor survey job in case of motor own damage claim above Rs 50,000/-.

Regarding the 196 claims referred in the show cause notice, the insurer stated that the company has an internal process of appointing Claim Officers in every claim it receives, so that the claim officer can co-ordinate with the insured, repairer and the surveyor for smooth settlement of claim. The insurer further stated that "*in all cases above Rs.50,000, the assessment of the loss was done by the licensed surveyor and the survey report has been obtained and duly signed and verified from a licensed surveyor*'.

The company reiterated that it has duly complied with Section 64UM by obtaining a report, on the loss that has occurred, from a person who holds a licence, which is further affirmed by the stamp and seal by the respective licensed surveyor on each of the survey report. The



insurer stated that the names recorded in the 48 claim cases referred in the mail post personal hearing are the names of the Claim Officers who have been assigned these particular claims and capturing the name of the Claim officer as surveyors might have given rise to the confusion resulting into this observation by the Authority.

9. Analysis of the Case:

During the on-site inspection of the insurer between 17th to 26th June, 2014, transactions for the years 2012-13 and 2013-14 were analysed and it was found that the insurer's employees not holding surveyor licence were being employed for assessment of motor own damage claims in contravention of Section 64UM of the Insurance Act, 1938.

The insurer was issued SCN dated 2nd December, 2016. As per Section 64UM (4) of the Insurance Act, no claim shall be admitted for payment or settled by an insurer unless he has obtained a report, on the loss that has occurred, from an approved surveyor/loss assessor holding valid licence.

The insurer in its response dated 12th Dec, 2016 to the show cause notice had submitted that *'the company has taken necessary steps and has streamlined the process to ensure that all claims having assessed loss exceeding Rs.50,000/- are being settled by a Licensed Surveyor in compliance of Section 64UM'*.

The Authority in its order dated 5th April, 2017 on charge 12 of the show cause notice had directed the insurer to ensure compliance to Regulation 12 of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015 to be read with Section 64UM (4) of the Insurance Act, 1938.

However, during the on-site inspection held during 18-29 December, 2017, it was noticed that the insurer has continued the practice of employing unlicensed in-house employees for assessment of motor own damage claims of above Rs.50,000.

The insurer during the on-site inspection clarified (vide e-mail dated 26th December, 2017) that *"All claims above Rs.50000/- initially assessed by in-house surveyors are duly scrutinized by licensed surveyors (in-house or external) for confirmation of loss assessed. The existing team of licensed surveyors additionally supervises such claims so that proper assessment of these losses is done to avoid any undue inconvenience to our customers."*

On examining the information submitted by the insurer to the inspection team, it was noticed that the insurer had utilized the services of 27 in-house employees who were not licensed surveyors, for motor claim assessment job in respect of 196 settled claims of losses above Rs.50,000/-, during the period 12th December, 2016 to 31st March, 2017.

The insurer in its submissions dated 2nd August, 2018, stated as below:

'We would also like to mention that in our response datedDec-2016 to earlier Inspection show cause notice, we had assured the Authority that the Company had taken suitable steps to rectify this and accordingly the Company had implemented the same w.e.f. January



01, 2017. Further, we have put in necessary system controls w.e.f. June 01, 2018 where no unlicensed surveyor will be able to undertake survey job above Rs 50,000/-.'

'We wish to submit that the company has settled more than Rs.50,000 claims during FY 15-16 & FY 16-17. Out of this only 1777 claims are surveyed by unlicensed in house surveyors which is only 3% of the total claims.'

Thus, despite the insurer's earlier submission dated 12th Dec, 2016 that it has streamlined the process, it admitted in its submission dated 2nd August, 2018 that it had not followed procedure in 3% of cases.

On examining 196 claim survey documents provided by the insurer along with its response dated 13th March, 2020 to the SCN issued by the Authority, it is found that in 48 final claim survey reports, the employees of the insurer not having surveyor's license have signed the report in their capacity as a surveyor. The 48 referred claims were settled during the period of 12th December, 2016 to 31st March, 2017. Out of these 48, in 41 cases the report was first signed by unlicensed employees as "Surveyor" and then countersigned by a licensed surveyor for having as "checked and verified". In the remaining 7 cases, the reports are signed only by unlicensed employees.

Thus, the insurer has engaged employees that are not licensed surveyors for assessment of motor own damage claims above Rs.50,000 and has hence failed to comply with Regulation 12(1 & 2) read with Regulation 3 and 4 of the IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015. This has happened despite the insurer having undertaken in an earlier occasion not to repeat such irregularity.

On analyzing the dates of claim settlement in respect of 48 final survey reports, it is found that the claims have been settled by the insurer based on the reports which were signed by unlicensed individuals as surveyors, as given below:

Date of claim payment	No. of reports	Sample No.	Date of claim payment	No. of reports	Sample No.
12-Dec-16	1	172	2-Feb-17	8	86,87,88,89,90, 158,190 & 191
19-Dec-16	1	181	9-Feb-17	1	145
28-Dec-16	1	18	14-Feb-17	2	168 & 192
29-Dec-16	1	162	15-Feb-17	1	155
30-Dec-16	5	154,163,182,184 & 186	16-Feb-17	1	148
31-Dec-16	1	180	18-Feb-17	1	169
2-Jan-17	1	19	20-Feb-17	1	160
6-Jan-17	1	157	27-Feb-17	3	94,95 & 195
18-Jan-17	1	143	1-Mar-17	3	28,167 & 194
21-Jan-17	1	187	2-Mar-17	2	146 & 159
25-Jan-17	3	164,165 & 189	15-Mar-17	1	102
27-Jan-17	2	16 & 144	17-Mar-17	1	196
30-Jan-17	1	166	23-Mar-17	1	149
31-Jan-17	1	188	31-Mar-17	1	11



The violation of relevant Regulations by the insurer has occurred on **28 different days** as referred to above and is repetitive in nature. Therefore, in exercise of the powers vested in the Authority as per the provisions of Section 102(b) of the Insurance Act, 1938, the Authority hereby imposes a penalty of **Rs.28,00,000/- (Rupees Twenty Eight lakh only)** for violation of Regulation 12(1 & 2) read with Regulation 3 and 4 of the IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015.

Further, the insurer is directed to ensure that all claims are settled in accordance with the provisions of Section 64UM of the Insurance Act, 1938 and IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015.

10. Summary of Decisions:

	Decision
Violation of Provisions of Regulation 12(1 & 2) read with Regulation 3 and 4 of the IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015.	Penalty of Rs.28 Lakh and Direction.

11. i. The penalty of Rs 28,00,000 (Rupees twenty eight lakh only) shall be remitted by the insurer through NEFT / RTGS (bank account details will be communicated separately) within a period of 15 days from the date of receipt of this Order. An intimation of remittance of penalty shall be sent to Shri Prabhat Kumar Maiti, General Manager (Enforcement), IRDAI, Sy.no.115/1, Financial District, Nanakramguda, Hyderabad-500032.

ii. This Order shall be placed before the Board of the insurer in the upcoming Board Meeting and the insurer shall provide a copy of the minutes of Board meeting to the Authority.

12. If the insurer feels aggrieved by this Order, an appeal may be preferred to the Securities Appellate Tribunal as per the provisions of Section 110 of the Insurance Act, 1938.

Place: Hyderabad
Date: 01-09-2020


(Dr. Subhash C. Khuntia)
Chairman