



IRDA/ENF/ORD/ONS/194/10/2019

Order in the matter of M/s. SBI Life Insurance Company Limited

Based on the

- Show Cause Notice (hereinafter referred to as "SCN") Reference No. IRDA / Enforcement /2017/191 dated 16th July, 2019 in connection with the onsite inspection conducted by Insurance Regulatory and Development Authority of India (Herein after referred to as "the Authority" or "IRDAI") during 23rd October, 2017 to 3rd November, 2017.
- M/s. SBI Life Insurance Company Limited (Hereinafter referred as "the life Insurer" or "company") letter dated 1st August, 2019.
- Submissions of the life insurer during Personal Hearing held on 13th September, 2019
- Further submission of the life insurer post personal hearing vide email dated 19th September, 2019.

Background

The Authority had conducted an onsite inspection of the life insurer during 23rd October, 2017 to 3rd November, 2017. The inspection report, inter alia, revealed certain violations of provisions of the Insurance Act, 1938, IRDAI's Regulations, Guidelines and various circulars issued there under.

2. A copy of the report was forwarded to the life insurer on 1st February, 2018 and the reply was received at the Authority vide letter dated 8th March, 2018. Post scrutiny of the first compliance, the Authority had raised further queries on some of the observations, for which the life insurer responded to vide emails dated 4th January, 2019, 1st April, 2019, 2nd April, 2019, 3rd April, 2019, 4th April, 2019, 24th April, 2019 and 8th May, 2019.

3. On examining the submissions made in all the above referred letters, emails by the life insurer to each of the inspection observations, it was observed that the life insurer has not complied with the applicable provisions of the Insurance Act, 1938, IRDAI's Regulations, guidelines framed there under, in case of certain observations.

4. Consequently, an SCN was issued by the Authority on 16th July, 2019 to the life insurer in this regard and the life insurer replied to the SCN on 1st August, 2019. While replying to the SCN, the life insurer requested for a personal hearing and the same was granted. The personal hearing was held on 13th September, 2019. On behalf of the life insurer, Mr. Sanjeev Nautiyal, MD & CEO, Mr. Sangramjit Sarangi, President & CFO, Mr. Subhendu Bal, Appointed Actuary and Mr. Pranay Raniwala, Compliance Officer attended the meeting. On behalf of the Authority, Mr. V. Jayanth Kumar, Chief General Manager (Life), Mr. S.P. Chakraborty, GM (Actuarial), Mr. Prabhat Kumar Maiti, GM (Enforcement) and Mr. K. Sridhar Rao, AGM (Enforcement) were also present. The charges and the decisions made by the Authority are as under: -

Charge No.1

Violation of File and Use Guidelines

5.Product approval letters under File and Use mandate that the Life Insurer is required to submit the product performance report on half-yearly basis to the Authority.

Contents of the Charge

6.The Life Insurer did not submit the product performance report as mandated in the respective products' approval letters. The same was observed in case of a sample of five of the products.

Submission by the Life Insurer

7. The product approval indicates that "..... the Insurer shall submit the new business volume figuresfor next two years from the date of launch of the product, on half yearly basis.....". It was felt that the report was first due after two years from launch of the product for each of the half years. Further, with an intention to provide appropriate comparison of product performance as against projected numbers, company waited for two years' period to expire, before submission of report. New business figures on half yearly basis for two years for all the existing products from the date of launch of the product has been submitted. However, the company gives undertaking that the performance reports will be submitted as prescribed hereinafter.

Decision

8. The product approval condition states clearly that business volume figures relating to the product was required to be submitted to the Authority for two years from the date of launch of the product, on half-yearly basis. The life insurer has submitted that they misunderstood the provision and delayed the submission of product performance figures to the completion of two years. Considering the undertaking of the life insurer that they will adhere to such conditions hereinafter, the **charge is not pressed**. The life insurer is advised to exercise due diligence to fulfill all conditions imposed during product approval.

Charge No.2

Violation of Notes to Form K under Regulation 4 of IRDA (Actuarial Report and Abstract) Regulations, 2000

9."*In the computation of the total sum at risk, ignore the contracts for which the sum at risk is a negative figure or does not exist*"

Contents of the charge

10.On verification of working sheets of Form K under the above referred Regulations, it was found that the negative Sum at Risk (SAR) at policy level was not zeroised but set off against other policies.



Submission by the Life Insurer

11. The SAR by definition is Sum Assured less Reserves. Some reserves are calculated at policy level while others are at global level, which are also called adjustments. The IRDAI Circular IRDA/ACTL/CIR/GEN/045/03/2011 dated 07.03.2011 prescribes apportionment of adjustments at a sub-class level (Sub-product). Global Reserves have been apportioned at sub-product level and hence the SAR is calculated at a sub-product level only. This was due to non-availability of global reserves at a contract level. Thus, SAR wherever negative is zeroised at sub-product level. However, had the SAR was zeroised at contract level, the impact on solvency ratio as at March, 2017 would have been 0.0003 which is highly insignificant and hence there is no change in the reported solvency ratio which remains the same at 2.04. Further, the methodology is modified and currently, the SAR wherever is negative, is zeroised at contract level.

Decision

12. As per submissions of the life insurer, it is clear that SAR has not been calculated at policy level. However, considering the submission that it has had only marginal impact on solvency and also that, the methodology is modified in line with the said regulations, the **charge is not pressed.**

Charge No.3

Violation of Regulation 21(d) of IRDA (Non-Linked Insurance Products) Regulations, 2013 modified vide Point no. I-10 of IRDA Circular No. IRDA/ACTL/CIR/PRD119/06/2013-14 dated 20th June, 2013

13. *"For one-year renewable group term insurance and One Year Group Health Insurance, the maximum commission or remuneration in any form shall be 2 per cent of premiums paid during the first year and 2 per cent of premium paid during the subsequent renewals with a ceiling of ₹.50000/- per scheme in each year"*

Contents of the Charge

14. On examination of a sample of yearly renewable group term policies, it is found that the commission to the intermediary is exceeding the maximum ceiling of ₹. 50,000.

Submission by the Life Insurer

15. The cases cited in the observation belong to one-year renewable group term insurance product "SBI Life - Sampoon Suraksha (UIN-111N040V03). As per the File and Use of the product approved by the Authority, a) First year commission - 2% of annual premium b) Subsequent servicing year - 2% of annualized premium subject to a cap of ₹. 50,000. At no point of time, the cap of ₹. 50,000/- for renewals was breached. However, post promulgation of IRDAI (Payment of Commission or Remuneration or Reward to Insurance Agents and Insurance Intermediaries) Regulations, 2016, the commission being paid is as prescribed therein.

Decision

16. As per the Regulation, the ceiling of ₹. 50,000 per scheme is applicable even in the first year. As such, the objective behind the provision, viz. to cap the commission in the first year to Rs.50000/- would have been followed. In this background, the life insurer's submission that the



cap of Rs.50000/- was only meant for the renewal premiums, under the File and Use, is not valid. Further, the life insurer is advised to ensure that they do not breach the limit on commission mandated under the extant Regulation, so as to comply with the provisions of IRDAI (Payment of Commission or Remuneration or Reward to Insurance Agents and Insurance Intermediaries) Regulations, 2016.

Charge No.4

Violation of Regulation 4(3) of IRDA (Protection of Policyholders' Interests) Regulations, 2002

17. "In filling the form of proposal, the prospect is to be guided by the provisions of Section 45 of Insurance Act, 1938. Any proposal form seeking information for grant of life cover may prominently state therein the requirements of Section 45 of the Act".

Violation of Regulation 13 of IRDA (Insurance Advertisements and Disclosure) Regulations, 2000.

18. The provisions of the above prescribe that every proposal for an insurance product shall carry the stipulation as prescribed in Section 41 of Insurance Act, 1938.

Contents of the Charge

19. On examination of sample proposal forms, it is found that –

- Section 41(2) provisions prior to "The Insurance Laws (Amendment) Act, 2015" were incorporated instead of new provisions.
- The provisions of Section 45 of Insurance Act, 1938 have not been properly reflected.

Submissions by the Life Insurer

20. Post promulgation of Insurance Laws (Amendment) Act, 2015, the changes to the proposal forms were initiated immediately and were submitted to the Authority's approval. The Authority approved new versions of proposal forms in June, 2015. Further, sales literatures and policy documents pursuant to change in Section 41 and Section 45 of Insurance Act, 1938 were modified immediately. However, the four cases cited by the Authority, were far and few cases where proposal forms were inadvertently logged in using the old proposal forms. The policy document for all the policies cited by the Authority contains updated extract of Section 41 and Section 45 of the Insurance Act, 1938. Customer onboarding process has been digitized to ensure that such errors are not recurred.

Decision

21. For the samples examined by the Authority, the proposal forms were signed on 30.11.2016, 23.12.2016, 17.02.2017 and 23.03.2017. The dates mentioned herein are almost two years after the promulgation of Insurance Laws (Amendment) Act, 2015. This indicates a casual approach of the life insurer in adhering to the regulatory norms mentioned herein. A proposal form is a basis of the contract and the provisions of the referred sections of Insurance Act, 1938 should be clearly and correctly mentioned. The lapses on the part of the life insurer not only violate the provisions of regulations mentioned herein but also indicate lack of proper internal controls in usage of applications for insurance, which may jeopardize the interests of the prospects/insureds. Hence, the Authority as per the powers vested in it under Section 102(b) of Insurance Act, 1938, **a penalty**



of ₹.4,00,000 (Rupees Four Lakh only) (i.e., Rs.1,00,000 for lapse noticed in each of the four proposal forms) is hereby imposed on the life insurer. The life insurer is hereby directed to ensure non-recurrence of such lapses.

Summary of Decisions

Charge No.	Violation of Provisions	Decision
1	Violation of File and Use provisions	Charge not pressed and advisory
2	Violation of Notes to Form K under Regulation 4 of IRDA (Actuarial Report and Abstract) Regulations, 2000	Charge not pressed
3	Violation of Regulation 21(d) of IRDA (Non-Linked Insurance Products) Regulations, 2013 modified vide Point no. I-10 of IRDA Circular No. IRDA/ACTL/CIR/PRD119/06/2013-14 dated 20th June, 2013	Advisory
4	i) Violation of Regulation 4(3) of IRDA (Protection of Policyholders' Interests) Regulations, 2002 ii) Violation of Regulation 13 of IRDA (Insurance Advertisements and Disclosure) Regulations, 2000.	₹.4,00,000 penalty and direction

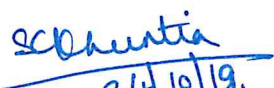
Conclusion

22.As directed under the respective charges, the penalty of **₹.4,00,000 (Rupees Four Lakh only)** shall be remitted by the Life Insurer by debiting shareholders' account within a period of 45 days from the date of receipt of this Order through NEFT/ RTGS (details for which will be communicated separately). An intimation of remittance may be sent to Mr. Prabhat Kumar Maiti, General Manager (Enforcement) at the Insurance Regulatory and Development Authority of India, Survey No.115/1, Financial District, Nanakramguda, Hyderabad-500 032.

23.Further,

- The Order shall be placed before the Board of the Life Insurer in the upcoming Board meeting and the Life Insurer shall provide a copy of the minutes of the discussion.
- If the Life Insurer 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.

Place: Hyderabad
Date: 24th October, 2019


24/10/19.
(Dr. Subhash C. Khuntia)
Chairman