



IRDAI/HLT/MISC/ORD/37/01/2020

**Order in the matter of M/s Tata AIG General Insurance Company Limited**

Based on the

- a) Show Cause Notice (SCN) (Reference No. 373/IRDAI/HLT/GEN/TATA-Capital-Fin Services/2018-19 dated 22<sup>nd</sup> July, 2019) to Tata AIG General Insurance Company Ltd. (the general insurer), in connection with the on-site inspection of Tata Capital Financial Services Ltd (the Corporate Agent) during 5<sup>th</sup>-7<sup>th</sup> March, 2018.
- b) Response to the above SCN by the general insurer vide letter dated 12<sup>th</sup> August 2019.
- c) Submissions of the general insurer during Personal Hearing held on 04<sup>th</sup> October, 2019, taken by the Chairman of the Authority at its office at Hyderabad.

**Background**

- 1) The Authority conducted an on-site inspection during 5-7 March, 2018 of Tata Capital Financial Services Ltd which is a corporate agent of the general insurer. The inspection report, inter alia, revealed certain violations of provisions of IRDAI's Regulations on protection of policyholders' interests.
- 2) A copy of the report was forwarded to the general insurer on 28<sup>th</sup> December, 2018 and the reply was received vide email dated 14<sup>th</sup> January, 2019. After scrutiny of the reply, the Authority sought further clarification on some of the observations, to which the general insurer responded vide email dated 22<sup>nd</sup> February, 2019.
- 3) On examining the submissions made by the general insurer, it was observed that the general insurer had not complied with the applicable provisions of the IRDAI's Regulations in case of certain inspection observations.
- 4) Consequently, a show cause notice was issued by the Authority on 22<sup>nd</sup> July, 2019 to the general insurer for violation of the provisions of Reg. 3(2) and 3(3) of IRDA (Protection of Policyholders' Interests) Regulations, 2002. The general insurer replied to the SCN on 12<sup>th</sup> August, 2019. While replying to the SCN, the general insurer requested for a personal hearing and the same was granted. The personal hearing was held on 4<sup>th</sup> October, 2019. On behalf of the general insurer, Mr. Neelesh Garg, MD & CEO, Mr. Madhukar Sinha, Chief Compliance Officer and Mr. Rajagopal Rudraraju, SVP and Product Head attended the meeting. Mr. Suresh Mathur, Executive Director, Mr. DVS Ramesh, GM (Health) and Dr. Pankaj Sharma, Manager (Health) of IRDAI were also present.

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- 5) The findings of the inspection were that the corporate agent collected renewal premium at the time of issue of a three-year policy issued by the general Insurer. To fund this amount of three-year policy premium plus another three-year renewal premium, the corporate agent provided loan to the policyholders and charged interest at 12.25 / 13% p.a. in respect of some policies picked up on sample basis during inspection.
- 6) The findings on submission made by the general insurer on the issues raised in the SCN and the decisions thereon are as under:

**Charge:**

**Violation of provisions of Reg. 3(2) and 3(3) of IRDA (Protection of Policyholders' Interests) Regulations, 2002**

- 7) The above stated regulations mandate that an insurer or its agent or intermediary shall provide all material information in respect of a proposed cover to the prospect to enable the prospect to decide on the best cover that would be in his or her interest and where the prospect depends upon the advice of the insurer or his agent or an insurance intermediary, such a person must advise the prospect dispassionately.

**Contents of the Charge:**

- 8) The corporate agent has granted some loans to its customers inclusive of the premium payable by the customers to the general insurer. In the following instances, policies were issued for a three-year period. However, renewal premium of subsequent three years was also collected at the inception and interest was charged by the corporate agent at the rate of 12.25% / 13% p.a. on the whole amount of loan granted (loan for first premium + renewal premium) in respect of the following sample policies.

Sl No	Policy No	Premium due for 3 year policy (INR)	Amount of Premium recovered / collected by the Corp Agent / general insurer (INR)
1	1900306846	99,994/-	2,00,000/-
2	235386814 00	99,999/-	2,00,000/-

**Submission by the general insurer:**

- 9) Premium was collected in good faith where the insured opted to pay the premium in advance for timely renewal of the policy to avoid any unplanned and inadvertent lapsing of the policy. When premium was paid by the corporate agent to general insurer with signed proposal form and calculation sheet, it was presumed that advance premium was collected with concurrence of the client.
- 10) In respect of the corporate agent charging interest at the rate of 12.25% / 13% p.a. on renewal premium also since inception of policy, the general insurer

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stated that they had no knowledge of the same nor did they have any role to play in that.

- 11) In respect of the sample cases referred at para no. 8 above, the general insurer stated that on receipt of the complaint, the amounts were refunded to the policyholder as mentioned hereunder.

Sl No.	Date of collection of premium by Corp Agent	Date of receipt of premium by Insurer	Date of policyholder's complaint / request	Date of refund to policyholder
1	08 <sup>th</sup> Aug, 2016	12 <sup>th</sup> Aug, 2016	27 <sup>th</sup> Mar, 2017	07 <sup>th</sup> Apr, 2017
2	30 <sup>th</sup> Jan, 2017	30 <sup>th</sup> Jan, 2017	27 <sup>th</sup> Mar, 2017	06 <sup>th</sup> Apr, 2017 & 17 <sup>th</sup> May, 2017

- 12) The general insurer also submitted that they have discontinued the practice of collecting the renewal premium at inception since June, 2017 which is well before the period of the inspection by the Authority.

**Decision of the Authority:**

- 13) The general insurer is expected to ensure that the consent of the client is obtained for paying advance renewal premium, as otherwise this may lead to serious market conduct issues. The insurer should be extra careful with a corporate agent which also has a lending business which may have potential conflict with the business of an insurance intermediary. When the policyholder is given a loan by the corporate agent for the renewal premium which is payable three years later on, the policyholder ends up paying interest unnecessarily. Except stating that it presumed the consent of the policyholders, no documentary evidence of the consent of the policyholder to pay renewal premium in advance has been submitted by the general insurer. Thus, it is clear that the general insurer has violated Reg. 3(2) and Reg. 3(3) of IRDA (Protection of Policyholders' Interests) Regulations, 2002.
- 14) The manner, in which the general insurer collected the renewal premium out of the loan sanctioned by the corporate agent, indicates that the general insurer did not put in place necessary controls to ensure compliance with the above referred regulatory provisions. The insurer should put in place business practices which enhance the transparency and facilitate informed choice by the policyholders. It is noted that the general insurer collected the renewal premium three years in advance in respect of one of the sample policies on 12<sup>th</sup> August, 2016. The insurer submitted that it discontinued the practice of accepting renewal premium at inception from June, 2017. Thus, considering 12<sup>th</sup> August, 2016 as the date on which this practice commenced and as the practice continued till end of May, 2017, the general insurer violated the regulatory provisions for 292 days. Under the provisions of Section 102 of the Insurance Act, 1938, the general insurer is liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

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Hence, the insurer is levied a penalty of Rs 1,00,00,000 (Rupees one crore only) in accordance to the provisions of Section 102 of the Insurance Act, 1938. The insurer is also directed to ensure in future that every insurance product is offered and marketed as per the extant regulatory framework.

- 15) Further, on evaluating the manner in which the renewal premium was accepted by the general insurer at the inception of the policy which is detrimental to the interests of policyholders, there is a need for corrective action to make good the financial loss incurred by the policyholders in respect of all the policies procured by the corporate agent since its engagement as a corporate agent with the general insurer wherever renewal premium was collected at inception. Hence, the following directions are issued under the provisions of Section 14 (1) of IRDA Act, 1999 read with Reg. 9 of IRDA (Protection of Policyholders' Interests) Regulations, 2002 and Reg. 16 (ii) of IRDAI (Protection of Policyholders' Interests) Regulations, 2017:
- a) The insurer shall identify the instances where the renewal premium was collected at inception itself out of loan granted by the corporate agent and appropriated and shall refund to the policyholders the interest charged by the corporate agent along with the penal interest;
  - b) Where renewal premium is collected at inception directly from the policyholder and appropriated, the insurer will pay to the policyholders the penal interest on such amount;
  - c) In respect of renewal premiums collected at inception, along with interest charged by the corporate agent, if any, for loan advanced but not yet appropriated towards renewal premium, the insurer will refund the renewal premium plus interest charged by the corporate agent along with penal interest;
  - d) The penal interest referred in para (a) to (c) above, should be at 2% above the bank rate as on 01<sup>st</sup> April, 2019 which shall be reckoned from the date of collection of the renewal premium till the date of refund/payment. Such penal interest paid to the policyholders shall be debited to the shareholders' account of the general insurer.
- 16) The entire procedure of carrying out the above directions shall be completed within 90 days from the date of this order. The general insurer is directed to submit an action taken report soon after completion of the action, but within 120 days from the date of this order.

**Conclusion:**

- 17) The penalty of Rs 1,00,00,000 (Rupees one crore only) shall be remitted by the general 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. DVS Ramesh, General Manager (Health) at the Insurance Regulatory and

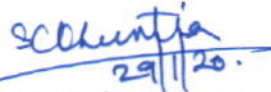
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Development Authority of India, Survey No.115/1, Financial District,  
Nanakramguda, Hyderabad-500 032.

18) Further,

- a. The order shall be placed before the Board of the general insurer in the upcoming board meeting and the general insurer shall provide a copy of the minutes of the discussion.
- b. If the general insurer feels aggrieved by the decision of this order, an appeal may be preferred to the Securities Appellate Tribunal as per Section 110 of the Insurance Act, 1938.

Place: Hyderabad  
Date: 29<sup>th</sup> January, 2020

  
29/1/20.  
(Dr. Subhash C. Khuntia)  
Chairman