



बीमा विनियामक और विकास प्राधिकरण

**INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY**

ORDER

Ref: IRDA/F&I/ORD/ 464.1/9/F&A/RDL-31B/2011-12/178

11th December, 2013

Mr. Suresh Mahalingam,
Chief Executive Officer,
TATA AIA Life Insurance Co. Ltd.,
Delphi-B Wing, 2nd Floor, Orchard Avenue,
Hiranandanl Business Park, Powal,
Mumbai - 400 076.

Levy of Penalty under Section 102 of the Insurance Act, 1938

The Insurance Regulatory and Development Authority (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 2013. 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').

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 w.r.to the financial year 2011-12, it was observed that the insurer has made payouts towards Advertisements/Business promotion expenses for Rs. 121.04 Lakh apart from the commission to corporate agent Destimoney Securities Pvt. Ltd. in violation of Clause 21 of the Guidelines. The total payouts made to the corporate agent

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including commission, production bonus and the aforementioned expenses were over and above Sec 40A limits by Rs. 107.27 Lakh.

The Authority communicated the findings to the insurer on 20th July, 2012 and sought explanation. The insurer submitted its response vide letter dated 7th August, 2012. The Authority examined the response of the insurer and issued Show Cause notice on 8th February, 2013. Show cause notice was also issued to the corporate agent simultaneously. The insurer submitted reply in response to Show Cause notice on 15th March 2013. Furthermore, the insurer's officials visited the Authority and presented their case personally on 17th July, 2013.

The insurer indicated in reply letters dated 7th August 2012/15th March 2013 and further contended during the personal hearing dated 17th July 2013, that expenses in the nature of Advertisement and Business promotion were towards Web page advertisements and email-campaigns run through the corporate agent. The said payments were at a fixed rate and not in any way linked with the business; proper procedures were ensured while placing the purchase orders for the advertisement. In support, the insurer submitted copies of due diligence reports/purchase orders/invoices. Insurer also clarified that the similar payouts made in the financial year 2012-13 were pertaining to the same purchase order of the financial year 2011-12 which continued till August 2012.

Sec 40A of the Act limits the payments to any agent by way of remuneration or reward or otherwise to a defined sum. Regulation 8(1) of the Regulations requires a corporate agent to abide by Sec 40A of the Act and clause 21 of the Guidelines reinforce this concept that a corporate agent can be paid only the approved commissions and no other fees or charges or rewards whatsoever except reasonable expenses for co-branded sales literature.

In view of the above, the Authority is of the considered view that insurer has violated the provisions of clause 21 of the Guidelines read with Sec 40A of the Act.




Having regard to the facts of the case and the gravity of the violations committed by the insurer, the Authority in exercise of powers vested in it under section 102 of the Act, imposes a penalty of ₹50,000 (fifty thousand) for the above violation.

Insurer is further directed to strictly adhere to the Act, Regulations made there under, Guidelines and Circulars issued in this regard from time to time.

The penalty amount shall be paid within a period of 15 days from the date of receipt of this order through a Cross Demand Draft in favour of "Insurance Regulatory and Development Authority" payable at Hyderabad, which may be sent to Mr. R.K.Sharma, Deputy Director (F&A) at the Insurance Regulatory and Development Authority, 3rd Floor, Parishrama Bhavan, Basheer Bagh, Hyderabad – 500004.

Place: Hyderabad
Date: 11th December, 2013


(R.K.Nair)
Member (F&I)
