

Ref: IRDA/NL/ORD/MISC/086/04/2021

Order in the matter of M/s SBI General Insurance Company Ltd.

Based on the

- (i) Show Cause Notice (hereinafter referred to as 'SCN') Dated 4th February, 2020 issued by the Adjudicating Officer appointed by the Authority.
- (ii) Reply of M/s SBI General Insurance Company Limited (hereinafter referred to as 'the Insurer') dated 3rd March, 2020 to the SCN.
- (iii) Submissions made by the Insurer before the Adjudicating Officer during virtual Personal Hearing on 19th June, 2020.
- (iv) Report of Adjudicating Officer dated 18th August, 2020.
- (v) Authority's letter dated 9th October, 2020, giving the Insurer an opportunity of personal hearing in the matter.
- (vi) Reply of the Insurer dated 15th October, 2020 to the Authority's letter dated 9th October, 2020.
- (vii) The submissions made by the Insurer during the virtual Personal Hearing held on 21st January, 2021 at 3:30 PM granted by the Chairman of the Authority.

Background:

- 1) On examination of the data submitted by the Insurer in accordance with IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015, it was observed that the Insurer did not comply with the Motor Third Party Obligation (hereinafter referred to as 'MTP Obligations') for the FY 2017-18.
- 2) As regards possible violation of Section 32D of Insurance Act, 1938 (hereinafter referred as 'the Act'), the matter was referred to the Adjudicating Officer appointed by the Authority as per the provisions of Section 105C of the Act.
- 3) The Adjudicating Officer issued a show cause notice vide letter ref. no. IRDAI/ADJ/SBI General//2019-20/ dated 4th February, 2020 under Rule 4 of the Insurance (Procedure for Holding Inquiry by Adjudicating Officer) Rules, 2016 (hereinafter referred to as 'AO Rules').
- 4) The Insurer vide its letter dated 3rd March, 2020 submitted its response to the SCN and as per the request of the Insurer, the Adjudicating Officer granted a personal hearing in the matter on 19th June, 2020.
- 5) The Adjudicating Officer submitted the inquiry report along with recommendations to the Authority on 18th August, 2020.

- 6) On examination of the Adjudicating Officer's report, the Authority issued a letter dated 9th October, 2020, offering another opportunity of personal hearing to the Insurer under section 105C (2) of Insurance Act, 1938.
- 7) The Insurer vide its letter dated 15th October, 2020 sought personal hearing, which was held by the undersigned on 21st January 2021 virtually. Shri P.C. Kandpal, MD & CEO, Shri Pushan Mahapatra, President – Strategic Investments & Digital Initiative, Shri Subramanyam B., Head-Underwriting & Reinsurance, Shri. Mahendra Tripathi, Head- Compliance, Legal & CS, Shri Rikhil Shah, SVP & CFO, Shri Shatrughan Sigh, Lead-Compliance of the Insurer were present in the hearing. On behalf of the Authority, Smt. Yegnapriya Bharat, CGM (Non-Life), Smt. Anita Josyula, GM (Non-Life) and Shri. A. Shrihari, Manager (Non-Life) attended.
- 8) The recommendations of the Adjudicating officer, submissions of the Insurer to the SCN vide letter dt. 03.02.2020, reply of the insurer dated 15.10.2020, and submissions made during personal hearing held on 21.01.2021 have been carefully considered.

9) **Charge**

Violation of Sec. 32D of Insurance Act, 1938: The Insurer did not comply with the MTP Obligation for the FY 2017-18 calculated as per Regulation 3 of IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015. During the FY 2017-18, the Insurer has underwritten Rs. 329.73 crore as against the minimum obligatory MTP Insurance business of Rs. 434.33 crore resulting in a shortfall of Rs. 104.60 crore. In percentage terms, the shortfall works out around 24.08% of the MTP Insurance business obligation.

- 10) The details of shortfall/ excess for the financial years 2015-16 to 2019-20 are as follows:

(Rs. in crores)

FY 2019-20		FY 2018-19		FY 2017-18		FY 2016-17		FY 2015-16	
Shortfall (-ve)/ Excess (+ve)									
Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
35.24	4.52%	-321.98	-50.44%	-104.60	-24.08%	-146.11	-38.59%	2.93	1.06%

11) Insurer's submissions:

- (a) The insurer stated that it has taken concerted efforts to meet its MTP obligations. There was a significant increase in its MTP business from the financial year 2019-20. The company had underwritten the MTP business to the tune of INR 815 crore during the financial year 2019-20, as against the MTP obligation for 2019-20 at INR 780 crores in compliance of its undertaking.
- (b) The company would be making up the shortfall for the financial year 2016-17, 2017-18 & 2018-19 in the subsequent years 2019-20, 2020-21 and 2021-22.
- (c) The insurer has never refused any "liability only" policy at any of its place of business and there was no malafide intention on their part.
- (d) The insurer has not made any disproportionate gain or unfair advantage as a result of the shortfall in complying with MTP Obligation. Further, it has not caused any loss to policyholders insured by it due to the shortfall.
- (e) The insurer has not committed any default under Section 105B, as the Section is attracted only if there is default under all the three sections, i.e. 32B, 32C and 32D of the Act.
- (f) Section 105D of the Act provides the three factors which ought to be taken into account to impose the penalty
 - (i) The amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
 - (ii) The amount of loss caused to the policyholders as a result of the default; and
 - (iii) The repetitive nature of default
- (g) The Insurer submitted that all the above three factors needs to be taken in account to impose the penalty

12) Due to repetitive nature of non-compliance, Adjudicative Officer recommended a penalty of Rs. One crore.

13) Decision of the Authority:

- (a) The Sections 32B, 32C and 32D are distinct from each other and compliance to any one of the sections does not absolve the insurer from non-compliance of other sections.
- (b) The basic objectives of Section 32D of Insurance Act, 1938 and IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015 are to reduce the number of uninsured vehicles, to ensure that no insurer refuses to underwrite MTP insurance cover, and to ensure that insurance risk is not concentrated with only a limited few insurers, but is spread across the Industry.

- (c) For the financial year 2017-18, the Insurer did not fulfill the obligation and had a shortfall of Rs.104.6 crores (24.08%), which amounts to non-compliance of Regulation 3 of IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015.
- (d) The Insurer had not fulfilled the MTP obligations during the immediate previous financial year 2016-17 with a significant shortfall of Rs. 146 crores (38.59%).
- (e) Taking into consideration the repetitive nature of violation, magnitude of violation, and the submissions of the insurer that they are committed and are entering into various tie-ups to fulfill the MTP obligation, the Authority, in exercise of its power vested as per the provisions of Section 105C of the Insurance Act, 1938, hereby imposes a penalty of **Rs. 25,00,000/- (Rupees twenty five lakh only)**.
- (f) Further, the insurer is advised to ensure strict compliance in future on the obligations under Motor Third Party business as specified in IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015.

14) **Summary of Decisions:**

Charge No.	Violation of Provisions	Decision
1	Non-Compliance with minimum obligations under Motor Third Party business as specified in IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015 for the financial year 2017-18	Penalty of Rs. 25 Lakh only and Advisory

- 15) The penalty of Rs. 25,00,000/- (Rupees twenty five lakh only) shall be remitted by the insurer by debiting the 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 Mrs. Yegnapriya Bharath, Chief General Manager (Non-Life) at the Insurance Regulatory and Development Authority of India, Survey No.115/1, Financial District, Nanakramguda, Hyderabad 500032, email id - ypriyab@irdai.gov.in.

- 16) The 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.
- 17) 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: 9th April, 2021

Sd/-
(Dr. Subhash C. Khuntia)
Chairman