



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I

Adjudication Division

Before

Shahzad Afzal Khan, Director/Head of Department (Adjudication Department-I)

In the matter of

Reliance Insurance Company Limited

Show Cause Notice No.	ID/Enf/RICL/2019/3826
& Issue Date:	December 7, 2023
Date of Hearing:	January 22, 2024
Attended By:	Mr. Ghulam Haider (CFO) Mr. Abdul Rahim (Head of Compliance)

ORDER

Under Section 42(2) & (4) of the Insurance Ordinance, 2000 read with SRO 771(I)/2007 dated July 30, 2007 and Section 11(1)(d) and Section 156 of the Ordinance

This Order shall dispose of the proceedings initiated vide Show Cause Notice No. ID/Enf/RICL/2019/3826 dated December 7, 2023 (the SCN) served on **Reliance Insurance Company Limited (the Company and/or the Respondent)** under Section 42(2) & (4) of the Insurance Ordinance, 2000 (the Ordinance) read with SRO 771(I)/2007 dated July 30, 2007 (SRO 771(I)/2007) and Section 11(1)(d) and Section 156 of the Ordinance. The Company is registered under the Ordinance to undertake non-life insurance business in Pakistan.

2. Pursuant to the provisions of Section 42(2) of the Ordinance read with SRO 771(I)/2007, every insurer is required to reinsure with Pakistan Reinsurance Company Limited (PRCL) not less than thirty-five percent (35%) of the business, which is in excess of the aggregate of; (i) the insurer's net retention; and (ii) the sum insured otherwise reinsured with PRCL or with any other insurer in Pakistan but excluding any part reinsured outside Pakistan.

3. Summary of treaty reinsurance/re-takaful arrangements for the year 2023 was sought from the Company vide the Commission's email dated July 12, 2023, which was provided by the Company vide email dated July 13, 2023.

4. While reviewing the aforesaid information, it was observed that in case of window takaful 'Property/Fire Risk and CAT XOL' treaty arrangements of the Company, no statutory share was offered to PRCL, which, *prima facie*, constitutes contravention of Section 42(2) of the Ordinance read with SRO 771(I)/2007 and Section 11(1)(d) of the Ordinance.

5. The response of PRCL was sought on the aforesaid information and PRCL vide email dated September 25, 2023 confirmed that the aforesaid treaties were not offered to it by the Company for its acceptance in accordance with the applicable provisions of the law.



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6. The Commission vide email dated October 3, 2023 advised the Company to furnish its explanation on the aforesaid observation. The Company vide email dated October 6, 2023 submitted its reply in the matter as under:

".....that PRCL did not also engage in these treaties during the preceding year of 2022-23. To provide additional context and to support this information, we have attached the relevant emails exchanged between RICL and PRCL. These emails, dated July 13, 2023, June 26, 2023, and June 29, 2022, clearly demonstrate the communications between RICL and PRCL regarding PRCL's non-participation in these specific treaty arrangements."

7. Review of the Company's email correspondence with PRCL revealed that the said correspondence was in respect of 'Motor XOL' treaty arrangements; however, no clarification/explanation was provided in respect of 'Property/ Fire Risk & CAT XOL' treaty re-takaful arrangements. Accordingly, it is transpired that the Company has failed to place/offer the required 35% share of its window takaful 'Property/Fire Risk & CAT XOL' re-takaful treaty arrangements to PRCL.

8. In view of the above, the reply of the Company was not found to be cogent as the Company was required to offer to reinsure its aforesaid business with PRCL acknowledging its first right of refusal.

9. In light of the preceding paras, the Company, *prima facie*, has failed to ensure compliance with the provisions of Section 42(2) of the Ordinance read with SRO 771(I)/2007 and Section 11(1)(d) of the Ordinance.

10. Contravention of Section 42(2) of the Ordinance attracts the penal provisions of Section 42(4) of the Ordinance and contravention of Section 11(1)(d) attracts penal provisions contained in Section 156 of the Ordinance.

11. The relevant provisions of the law are reproduced as under:

Section 11(1) of the Ordinance:

Conditions imposed on registered insurers. -(1) An insurer registered under this Ordinance shall at all times ensure that:

.....

(d) the provisions of this Ordinance relating to the obtaining of reinsurance arrangements are complied with;

Section 42 of the Ordinance:

42. Compulsory Cession.-

(2) The Federal Government may, by notification in the official Gazette, direct that every insurer shall offer to reinsure with the Company such proportion as is determined on such basis as may be specified in such notification of its direct non-life insurance business which is in excess of the aggregate of:

(a) the insurer's net retention;

(b) the sum insured required to be reinsured under sub-section (1); and

(c) the sum insured otherwise reinsured with the Company or with any other insurer in Pakistan but excluding any part reinsured outside Pakistan.

(3) The reinsurance set out in sub-section (2) shall for the purposes of this Ordinance constitute a treaty contract of reinsurance between the insurer and the Company, operating on a risks attaching basis.



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(4) *Whoever contravenes the foregoing provisions of this section shall be punishable with a fine which may extend to ten thousand rupees and with a further fine which may extend to one thousand rupees for every day after the day on which the contravention continues.*

SRO 771(I)/2007 dated July 30, 2007:

The Federal Government is pleased to notify that the right of first refusal entitlement of Pakistan Reinsurance Company Limited shall remain in force and every insurer operating in Pakistan shall continue to reinsure with Pakistan Reinsurance Company Limited not less than thirty five percent of business which is in excess of aggregate of :-

- (a) *the insurer's net retention; and*
- (b) *the sum insured otherwise reinsured with the Company or with any other insurer in Pakistan but excluding any part reinsured outside Pakistan.*

Section 156 of the Ordinance:

Penalty for default in complying with, or acting in contravention of this Ordinance: Except as otherwise provided in this Ordinance, any insurer who makes default in complying with or acts in contravention of any requirement of this Ordinance, [or any direction made by the Commission, the Commission shall have the power to impose fine on the insurer] and, where the insurer is a company, any director, or other officer of the company, who is knowingly a party to the default, shall be punishable with fine which may extend to one million rupees and, in the case of a continuing default, with an additional fine which may extend to ten thousand rupees for every day during which the default continues.

12. The Company submitted its reply vide letter dated December 18, 2023 in response to the SCN, which is reproduced as under:

(Quote):

We refer to the subject Show Cause Notice served vide your letter reference No.ID/Enf/RICL/2019/3826 dated 7, December 2023 for non-compliance of being no statutory share offered to PRCL in case of Window takaful 'Property/ Fire per Risk and CAT XOL' treaty for the year 2023.

In the context of Motor Re-takaful Treaty, where PRCL has not been participating since July 2022, we wish to apprise you that we were under the assumption that PRCL would also not be contributing to their share in the Property/ Fire Risk and CAT XOL retakaful treaty arrangement. Furthermore, it may be submitted that PRCL did not engage in these treaties during the preceding year 2022. Instead, we placed the aforementioned risk with our lead insurer who bound us subject to 100% participation.

We acknowledge and concur that we failed to offer the required 35% obligatory share to PRCL on the Property/ Fire per Risk and CAT XOL retakaful treaty arrangement for the year 2023, as mandated by SRO 771 (1)/2007. We sincerely apologize for the non-compliance. Despite this lapse, we would like to emphasize our unwavering commitment to adhering to the requirements, guidelines, rules, regulations, and directive set forth by SECP.

Moving forward, for the takaful reinsurance arrangements renewal for the year 2024, we assure you that we will act in strict compliance with the stipulations outlined in SRO 771/2007 and Section 11(1)(d) of the Insurance Ordinance, 2000.

Whilst we are indeed thankful to you for drawing our attention towards the subject matter, we



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reassure our commitment for compliance of SRO and Section 11(1)(d) of the Insurance Ordinance, 2000 in future and at all times and would humbly request you to kindly condone RICL for this Show Cause Notice and we, once again regret for the inconvenience and realizing the gravity and importance of the matter, we reassure our commitment for compliance of said provisions at all times.

You are requested to please take a lenient view in consideration of our submissions and explanations as submitted above and condone RICL and relieve us from any penalty under Section 156 of the Ordinance.

(Unquote)

13. In order to provide the Respondent/Company an opportunity of personal representation, hearing in the matter was fixed for January 22, 2024. The said hearing was held through zoom meeting link on the scheduled date and was attended by Mr. Ghulam Haider (CFO) and Mr. Abdul Rahim (Head of Compliance) as the Authorised Representatives of the Company (**the Authorised Representative**). During the hearing, the Authorised Representatives were advised to explain the reasons for alleged non-compliance, as narrated in the SCN. The Authorized Representative reiterated the submissions made in the written reply.

14. After review of the instant case, the submissions and arguments of the Respondent/Company and its Authorised Representatives may be summarized and addressed as under:

- (i) Since PRCL has not been participating in Motor Re-takaful treaty of the Company since 2022, the Company was under impression that PRCL would also not be contributing in the Property/Fire Risk and CAT XOL re-takaful treaty arrangement as well.
- (ii) The Company has admitted to have failed to offer the required 35% share to PRCL from its Property/Fire Risk & CAT XOL re-takaful treaty business for the year 2023, in contravention of the mandatory requirements of the law.

15. I have examined the facts of the case in light of the applicable provisions of the law and have given due consideration to the written as well as verbal submissions and arguments of the Respondent and its Authorised Representatives. I am of the considered view that the Respondent has admitted to have failed to offer the required 35% share to PRCL from its Property/Fire Risk & CAT XOL re-takaful treaty business for the year 2023, which constitutes non-compliance of the requirements of Section 42(2) read with SRO 771(I)/2007. In addition, the Company has failed to comply with the requirements of Section 11(1)(d) of the Ordinance as the provisions of the Ordinance relating to the reinsurance arrangements have not been complied with. Contravention of Section 42(2) of the Ordinance attracts the penal provisions of Section 42(4) of the Ordinance and contravention of Section 11(1)(d) attracts penal provisions contained in Section 156 of the Ordinance.

16. In exercise of powers conferred under Section 42(4) and Section 156 of the Ordinance, I, hereby, impose an aggregate penalty of **Rs.50,000/- (Rupees Fifty Thousand Only)** on the Respondent on account of established default as narrated above.

17. The Respondent is hereby directed to deposit the aforesaid fine in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with MCB Bank Limited within thirty (30) days from the date of this Order and furnish receipted voucher issued in the name of the Commission for information and record.



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18. This Order is being issued without prejudice to any other action that the Commission may initiate against the Company and / or its management (including CEO of the Company) in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

A handwritten signature in blue ink, consisting of several loops and a horizontal line at the end, is positioned above the name of the Director/Head of Department.

Shahzad Afzal Khan
Director/Head of Department
(Adjudication Department-I)

Announced:
February 01, 2024
Islamabad.

