



INSURANCE DIVISION
Islamabad

Before Tahir Mahmood, Commissioner (Insurance)

In the matter of

National Insurance Company Limited

Show Cause Notice No. and Issue Date: ID/Enf/NICL/2017/12629 Dated
November 3, 2017

Date of Hearing: March 28, 2018

Attended By: Mr. Farrukh Majeed Qureshi
Company Secretary
M/s National Insurance Company
Limited

Date of Order: April 18, 2018

ORDER

**Under Section 46(1)(b) 46(2), 51(1) & 51(2) of the Insurance Ordinance 2000 read
with Section 156 of the Insurance Ordinance, 2000**

.....

This Order shall dispose of the proceedings initiated against M/s. National Insurance Company Limited (the "Company") and its Board of Directors for alleged contravention of Sections 46(1)(b), 46(2), 51(1) & 51(2) of the Insurance Ordinance, 2000 (the "Ordinance"). The Company and its Directors shall be collectively referred to as the "Respondents" hereinafter.

2. The Company is registered under the Ordinance to carry on non-life insurance business in Pakistan.

3. The Commission issued a direction dated July 15, 2015 to the Company under Section 170 of the Companies Ordinance, 1984 as under:-

"To convene its overdue Annual General meetings for the calendar year 2010, 2011, 2012, 2013 and 2014 by August 31, 2015 as so to lay therein the Audited Accounts, transact other business as required under the law and therefore submit within week of date of meeting so held, a compliance report along with attested copies of minutes and audited accounts so approved."

4. The Company failed to comply with the aforesaid direction, therefore, another regulatory proceeding under Section 171 of the Companies ordinance, 1984 was initiated against the Company and concluded through an order dated April 3, 2017 with the following direction:-

**SECURITIES AND EXCHANGE
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“.....I hereby direct the Company to prepare and obtain approval of its pending accounts by June 30, 2017 and submit the report to the Commission in the matter. Furthermore, the Company is directed to exercise due prudence and caution in the future whilst complying with the requirements of the Ordinance.”

5. The Company submitted the Annual Audited Accounts for the years 2010 and 2011, while the Annual Audited Accounts for the year ended December 31, 2012, 2013, 2014, 2015 and 2016 were not submitted.

6. A reminder letter dated May 25, 2017 was issued to the Company to submit Annual Audited Accounts for the year ended December 31, 2016 without any further delay and ensure compliance with the statutory provisions.

7. The Company in its response dated June 01, 2017, stated that:-

“Presently, the audit of accounts for the years ended December 31, 2012, December 31, 2013 and December 31, 2014 is underway, which is expected to complete before the mid of June 2017. And immediately upon completion of the audit of the annual accounts for the years 2012, 2013 & 2014, the same shall be placed before the shareholders for approval/adoption.

It may please be noted that SECP, in its order dated April 03, 2017 passed in the matter of the show cause notice under Section 171 of the Companies Ordinance, 1984, has already accepted the plea arguments of NICL and a timeframe till the end of June 2017 has already been allowed to NICL for preparation and approval of its then pending accounts. In addition to the factual position stated earlier in this letter, it is further stated that the Board has accorded its approval to initiate the appointment of the external auditors for the years 2015 & 2016 from the approved list of auditors as notified by SECP however, the process has already been started and the publication of an advertisement in compliance with PPRA Rules shall be appearing in the newspapers within a week's time.”

7. In view of the above, it appeared that the Company has failed to file its Annual Audited Accounts and Regulatory Returns for the years ended December 31, 2012, 2013, 2014, 2015, 2016 in violation of Section 46(1)(b), 46(2), 51(1) & 51(2) of the Ordinance.

8. Section 461(1)(b) and (2) of the Ordinance requires that:

“Accounting and reporting.- (1) Every insurer shall at the expiration of each year prepare and deliver to the Commission with reference to that year annual statutory accounts comprising the following statements duly audited by an approved auditor:

- (b) in the case of a non-life insurer,
 - (i) a statement of assets and liabilities;
 - (ii) a statement of profits and losses;
 - (iii) a statement of cash flows;
 - (iv) a statement of premiums;
 - (v) a statement of claims;
 - (vi) a statement of expenses;
 - (vii) a statement of investment income;



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- (viii) a statement of claims analysis;
(ix) a statement of exposures; and
(x) such other statements as may be prescribed by the Federal Government;

each in such form as may be prescribed by the Commission and prepared in accordance with such regulations as are issued by the Commission from time to time in this behalf."

"(2) Every insurer shall furnish, to the Commission, following the last day of December, March, June and September in each year, a statement of assets and liabilities in the form and prepared in accordance with the regulations prescribed under the preceding sub-section made up as of that date and such statement shall be certified by a principal officer of the insurer.

Provided that an actuarial valuation of policyholder liabilities as at the date to which such statement is made up is not required by virtue of this sub-section alone, and that the regulations prescribed under this sub-section shall provide for the determination of the value which is to be attributed to policyholder liabilities for the purposes of this sub-section."

9. Section 51(1) and (2) of the Ordinance states that:

"Submission of returns.- (1) The audited statements and report referred to in sub-sections (1) and (5) of section 46 and the report and statement referred to in section 50, including any report referred to in sub-section (7) of section 50, shall be furnished as returns to the Commission in such manner as may be prescribed by the Commission, but in any case including at least one printed copy, within four months from the end of the period to which they refer:

Provided that the Commission may on application by an insurer extend the time allowed by this sub-section for the furnishing of such returns by a further period not exceeding one month.

(2) The statement referred to in sub-section (2) of section 46 shall be furnished as a return to the Commission in such manner as may be prescribed by the Commission, but in any case including at least one printed copy, within six weeks from the date to which it is made up:

Provided that the Commission may on application by an insurer extend the time allowed by this sub-section for the furnishing of such returns by a further period not exceeding fifteen days."

10. Accordingly, a Show Cause Notice (SCN) No. ID/Enf/NICL/2017/12629 dated November 2, 2017 was issued to the Respondents, calling upon them to show cause as to why the fine as provided under Section 156 of the Ordinance should not be imposed on them for the aforementioned alleged contraventions of the law.



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11. Thereafter, the Respondents submitted their reply vide letter dated November 13, 2017, which is reproduced hereunder:

".....

2. *On behalf of the Board of Directors and the Management of M/s. National Insurance Company Limited (NICL), it is stated that NICL's Board and the Management has always been keen to abide by the statutory requirements and also the directions of SECP; however, due to practical difficulties faced by NICL during the past, certain factors have been beyond the control of the Board and the Management of NICL. In this regard, you may please appreciate that audit of accounts is a sequential process, that is to say that audit of accounts for the preceding years have to be completed before the same is to be achieved for the later years.*
3. *It is evident from the record that prior to the appointment/nomination of the current Board, a Board was appointed / nominated on March 15, 2013 for a period of six months only. And, since the expiration of the term of six months, there has been no Board till the current Board of NICL was appointed / nominated during the year 2015. Accordingly, the accounts relating to the past years (i.e. from the year 2010 and onwards) were neither audited nor approved prior to the appointment / nomination of the current Board. Hence, the current Board and the Management of NICL had to do all needful to get the previous accounts finalized and approved before any later accounts were to be touched upon. And, as a result of the Board and the Management's efforts, the annual accounts of NICL for the years ended December 31, 2010 and December 31, 2011 were approved and adopted in the Annual General Meeting held on March 30, 2017. And, in the same Annual General Meeting, the external auditors for the years 2012, 2013 and 2014 were appointed to conduct the audit of accounts of the said years.*
4. *It is submitted that the process of audit of the Annual Accounts for the years 2012, 2013 and 2014 took considerable time due to the reasons that these were the old accounts and the external auditors requested for old records, which were not readily available at the time of audit and were provided to external auditors in piecemeal. Now, the external auditors of NICL (i.e. M/s. Grant Thornton Anjum Rahman, Chartered Accountants) have very recently finalized the audit of the Annual Accounts for the years 2012, 2013 and 2014 and initialed accounts have been provided, which are being considered for approval and adoption as per the following schedule:*

1. **AUDIT COMMITTEE MEETING:** THURSDAY, NOVEMBER 16, 2017 AT 11:00 A.M.
2. **BOARD MEETING:** FRIDAY, NOVEMBER 17, 2017 AT 11:00 A.M.
3. **ANNUAL GENERAL MEETING:** FRIDAY, DECEMBER 15, 2017 AT 11:00 A.M. (Proposed date subject to the approval by SECP in terms of Section 147 of the Companies Act, 2017).



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5. *NICL's earlier estimation that the accounts would be finalized by the end of June 2017 was put forward on the basis of the management's expectations without taking into account the unforeseen factors which inevitably caused delay in finalization of the accounts till 2014. However, you would appreciate the Board and the Management's efforts and commitment to abide by the applicable laws, as the delay may not be attributed to the current Board and the Management.*
6. *It would also be pertinent to note that the process of appointment of external auditors for the years 2015 and 2016 has also been finalized, and the audit of the annual accounts for the years 2015 and 2016 shall commence as soon as Accounts for the years 2012, 2013 & 2014 are signed-off.*
7. *Lastly, it is most humbly stated that the delay in finalization of old accounts occurred neither knowingly nor willfully on part of the current Board and the management of NICL, as the same has been beyond our control as explained above; therefore, we request that the delay may please be condoned, particularly in view of the positive actions taken by the Board and the Management as enumerated above.*
8. *In view of the above, it is most respectfully submitted that the above referred Show Cause Notice may please be withdrawn."*
12. The Commission vide letter dated November 21, 2017 scheduled the hearing on December 6, 2017. However, the Company vide email dated December 4, 2017 requested to reschedule the hearing to another date. In the interest of justice and to provide another opportunity to the Respondents, the Commission vide letter dated March 20, 2018 scheduled the hearing on March 28, 2018.
13. The hearing of March 28, 2018 was held at the Company Registration Office of the Commission at Karachi, which was attended by the authorized representative of the Respondents namely Mr. Farrukh Majeed Qureshi, Company Secretary representing the Respondents before the Commission in the instant matter.
14. During the hearing, the Representative stated that the Annual Audited Accounts for the years 2010, 2011, 2012, 2013 & 2014 have been signed and submitted to the Commission. He apprised the Commission that audit is underway for the remaining Accounts.
15. In terms of Section 46(1)(b) & (2) and Section 51(1) & (2) of the Ordinance, the Company was required to file its Annual Audited Accounts and Regulatory Returns. However, record of the Commission shows that Company has not been submitting Annual Audited Accounts and Regulatory Returns for past many years. The Company has now submitted Annual Audited Accounts until the year 2014 (2012, 2013 & 2014) however regulatory returns have not been submitted (not even for 2010 & 2011). The Company failed to comply with mandatory requirements despite provision of sufficient time for compliance. This is evident from the fact that the Company was directed on July 15, 2015 to convene its overdue Annual General meetings for the calendar years 2010, 2011, 2012, 2013 and 2014 by August 31, 2015 as so to lay therein the Audited Accounts, transact other business as required under the law and submit a



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compliance report within week of the date of meeting. Furthermore, the Company was directed vide order dated April 3, 2017 to prepare and obtain approval of its pending accounts by June 30, 2017 and submit the report to the Commission in the matter. Despite repeated directions/reminders, the Company has so far failed to submit annual accounts for year ended 2015 & 2016 and regulatory returns for the year ended 2010 to 2016, as advised by the Commission.

16. I have carefully examined and given due consideration to the written and verbal submissions of the Respondents, and have also referred to the provisions of the Ordinance, the Rules made thereunder and/or other legal references, I am of the view that the default of Section 46(1)(b), 46(2), 51(1) & 51(2) of the Ordinance is established. Therefore, the fine as provided under Section 156 of the Ordinance can be imposed onto the Respondents i.e. the Company, its CEO and Directors.

17. Section 156 of the Ordinance provides that:

"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."

18. In exercise of the power conferred on me under Section 156 of the Ordinance I, instead of imposing the maximum fine as provided under the said provisions, impose a fine of Rs. 100,000/- (One hundred thousand only) on the Company due to the default of Section 46(1)(b) 46(2), 51(1) and Section 51(2) of the Ordinance, as mentioned in the above paras hereof. The Respondents are hereby directed to submit the remaining annual accounts and regulatory returns to the Commission at the earliest.

19. Hence, the Company is hereby directed to deposit the applicable 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 vouchers issued in the name of the Commission for information and record.

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


Tahir Mahmood
Commissioner (Insurance)

