



SECP

INSURANCE DIVISION
Islamabad

Before Fida Hussain Samoo, Commissioner (Insurance)

In the matter of

East West Life Assurance Company Limited.

Show Cause Notice Number ID/Enf/EWLA/2017/9248 dated April 17, 2017
and Issue Date:

Date of Hearing: May 24, 2017

Attended By: Mr. Ajaz Hussain
Head of Actuarial & Individual Life Operations
✓ M/s. East West Life Assurance Company Limited

Date of Order: June 2, 2017

ORDER

Under Section 12(1)(e) and Section 12(4) read with Section 133, Section 156 and
Section 158 of the Insurance Ordinance, 2000.

.....

This Order shall dispose of the proceedings initiated against M/s. East West Life Assurance Company Limited (the "Company"), and its Board of Directors for alleged contravention of Section 12(1)(e) and Section 12(4) of the Insurance Ordinance, 2000 (the "Ordinance"). The Company and its Board of Directors shall be referred to as the "Respondents" hereinafter.

2. The Honorable Federal Insurance Ombudsman (the "FIO") passed four different Orders (collectively referred hereafter as the "Orders") against the Company dated September 26, 2016, October 3, 2016, and two orders dated October 4, 2016 in respect of the following different complainants (collectively referred hereafter as the "Complainants"):

- i. Complaint No. 247 of 2015 – Mr. Raja Nauahar
- ii. Complaint No. 219 of 2016 – Mr. Iftikhar Ahmed Khan
- iii. Complaint No. 210 of 2016 – Mr. Fazal Karim
- iv. Complaint No. 98 of 2016 – Dr. Humayun Rasheed

3. In its Orders, the FIO advised the Commissioner Insurance, Securities and Exchange Commission of Pakistan (the "Commission") for impartial evaluation of

SECURITIES AND EXCHANGE
COMMISSION OF PAKISTAN

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the account of Complainants by an actuary for determination of any further benefits payable to the Complainants. Extracts of the Orders of the FIO are as follows:

"The matter requires impartial evaluation of account of the Complainant by an expert Actuary. Therefore, the Commissioner Insurance, SECP, should get the account of the Complainant evaluated by their Actuary and determine whether any further amount is payable to the Complainant. The Respondent Company should submit all the documents and details of the policy of the Complainant to SECP for such evaluation and discharge their liability as per evaluation made by Actuary of Securities & Exchange Commission of Pakistan."

4. As per Orders of the FIO, the Commission called for the policy related documents, information and calculations of the Complainants from the Company vide letters dated October 5, 2016, October 06, 2016 and October 26, 2016. The Company vide letters dated October 13, 2016 and November 1, 2016 submitted partial information to the Commission. Accordingly, the Commission vide letters dated November 4, 2016 and November 8, 2016 called for complete information and calculations from the Company. Upon non-submission of the requisite information, a direction under Section 61(1) of the Ordinance dated December 02, 2016 was also issued to the Company. Thereafter, the Company vide letter dated December 6, 2016 submitted complete documents, information and calculations relevant to policies of the Complainants.

5. While reviewing the Complainants' account value calculations provided by the Company, it was noted that the figures of investment income and ending account values for all four Complainants did not match with the figures shown in the Statements of Account provided to the Complainants. Accordingly, the Company, vide letter dated January 4, 2017, was advised to provide explanations on the differences identified by the Commission. In response, the Company vide letter dated January 13, 2017, provided revised calculations to the Commission, however, the revised calculations also failed to explain the differences identified earlier.

6. The figures of investment income and ending account values provided to the Complainants and Commission through multiple letters were as follows:

a) Complainant 1 - Mr. Raja Naubahar

Year	Policy Year	Statement of Account provided to Complainant		Account Values provided to this office dated December 6, 2016		Account Values provided to this office dated January 13, 2017	
		Investment Income	Ending A/c values	Investment Income	Ending A/c values	Investment Income	Ending A/c values
2007	14	3,232	61,943	3,383	62,095	3,409	62,120



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Insurance Division

Continuation Sheet 2

2008	15	3,677	69,818	3,687	69,980	3,688	65,157
2009	16	4,153	78,225	4,163	78,399	3,870	68,375
2010	17	4,662	87,217	6,844	89,575	6,616	88,897
2011	18	5,642	97,290	4,860	98,898	4,949	98,300
2012	19	6,305	108,164	4,990	108,481	5,007	107,890
2013	20	6,475	119,248	6,159	119,248	6,163	118,662

b) Complainant 2 – Mr. Iftikhar Ahmed Khan

Year	Policy Year	Statement of Account provided to Complainant		Account Values provided to this office dated December 6, 2016		Account Values provided to this office dated January 13, 2017	
		Investment Income	Ending A/c values	Investment Income	Ending A/c values	Investment Income	Ending A/c values
2007	13	1,468	28,232	1,571	28,334	1,468	28,232
2008	14	1,696	32,152	1,734	32,293	1,696	32,151
2009	15	1,923	36,310	1,956	36,485	1,923	36,310
2010	16	2,211	40,771	3,187	41,923	3,169	41,728
2011	17	2,662	45,701	2,237	46,434	2,251	46,253
2012	18	3,008	51,001	2,325	51,054	2,342	50,890
2013	19	2,838	56,156	2,877	56,248	2,889	56,095
2014	20	3,120	61,593	3,028	61,593	2,998	61,410

c) Complainant 3 – Mr. Fazal Karim

Year	Policy Year	Statement of Account provided to Complainant		Account Values provided to this office dated December 6, 2016		Account Values provided to this office dated January 13, 2017	
		Investment Income	Ending A/c values	Investment Income	Ending A/c values	Investment Income	Ending A/c values
2007	14	704	8,917	1,209	9,356	1,246	9,394
2008	15	440	11,613	646	12,162	692	12,245
2009	16	645	14,510	726	15,033	851	15,244
2010	17	1,173	17,932	1,232	18,399	1,493	18,875
2011	18	916	21,103	955	21,491	1,118	22,141
2012	19	1,130	24,494	1,046	24,677	1,059	22,236
2013	20	1,301	28,071	1,348	28,178	1,537	28,979
2014	21	1,499	31,878	1,478	31,878	1,650	32,875

d) Complainant 4 – Dr. Humayun Rasheed

Year	Policy Year	Statement of Account	Values	Account	Values
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SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Insurance Division

Continuation Sheet 3

Year	Policy Year	Account provided to Complainant		provided to this office dated December 6, 2016		provided to this office dated January 13, 2017	
		Investment Income	Ending A/c values	Investment Income	Ending A/c values	Investment Income	Ending A/c values
2007	13	6,300	120,898	6,392	120,990	6,305	120,903
2008	14	7,165	136,182	7,171	136,281	7,325	136,346
2009	15	8,089	152,507	8,095	152,613	8,626	153,210
2010	16	9,079	169,984	13,162	174,176	13,359	174,978
2011	17	10,986	189,589	9,305	192,169	9,547	193,228
2012	18	12,280	210,797	9,621	210,764	9,631	202,256
2013	19	11,567	231,481	11,878	231,758	11,320	213,096
2014	20	12,705	253,302	12,428	253,302	11,960	253,365

7. As evident from the data reproduced above, the calculation of account values provided to the Commission through multiple letters, the Company failed to replicate the account values provided to the Complainants through their statements of accounts. Failure of the Company to provide for the exact calculations to arrive at the account values stated in the statements of accounts provided to the Complainants revealed that the Company misstated to the Complainants in depiction of their account values. This also reveals weakness in the internal controls of the Company.

8. Furthermore, the Company was advised vide letter dated January 04, 2017 to submit the evidence of receipts of premiums for verification of the year values on which the investment income was based, appearing in the calculations submitted by the Company. The Company vide letter dated January 13, 2017 provided premium receipts issued to the Complainants along with the revised calculations. While reviewing the said premium receipts, it was noted that there was a lag of up to one year between the provisional receipt dates of premium and the date of issuance of the premium receipts. Few instances of the same are as follow:

Case	Provisional Receipt Date	Premium Receipt issuance date	Time Lag or Difference
Dr. Humayun Rasheed	January 25, 2008	June 17, 2008	Upto 6 months
Dr. Humayun Rasheed	December 4, 2013	December 31, 2014	More than 1 year
Dr. Humayun Rasheed	December 4, 2013	December 21, 2014	More than 1 year
Dr. Humayun Rasheed	October 14, 2014	December 31, 2014	More than 2 months
Raja Naubahar	May 20, 2010	May 11, 2011	Upto 1 year
Raja Naubahar	May 20, 2010	May 11, 2011	Upto 1 year

9. Accordingly, calculations performed and differences in account values identified by the Commission were provided to the FIO vide letter dated February 24, 2017 for his further necessary action. Subsequently, the FIO vide letter dated



March 17, 2017, advised the Commission under Section 133 of the Ordinance to initiate legal proceedings against the Company for violation of the insurance laws and for providing false information to the FIO as well as to the Complainants.

10. The above instances revealed deficiencies in the Company's internal control system, which resulted in understatement of Complainants' account values, as the investment incomes allocated, were based on the issue date of premium receipts. Hence, the Company and its Board of Directors, *prima facie*, committed violations of Section 12(1)(e) and Section 12(4) of the Ordinance.

11. Section 12(1)(e) of the Ordinance requires that:

12. Criteria for sound and prudent management.- (1) For the purposes of this Ordinance, the following shall, without limitation, be recognised as criteria for sound and prudent management of an insurer or applicant for registration as a person authorised to carry on insurance business:

(e) the insurer or applicant maintains adequate systems of control of its business and records.

12. Section 12(4) of the Ordinance states that:

(4) The insurer or applicant shall not be regarded as conducting its business in a sound and prudent manner if it fails to conduct its business with due regard to the interests of policy holders and potential policy holders."

13. Section 133 of the Ordinance provides that:

133. Duty and power of the Insurance Ombudsman to report to the Commission.-

(1) Where the Insurance Ombudsman has reason to believe during the course of his investigation into a complaint brought before him, or finds as a result of his investigation that an insurer has -

(a) failed to comply with this Ordinance; or

(b) failed to act in good faith; or

(c) acted in such a manner as to bring the insurance industry into disrepute;

he shall make a report on that matter to the Commission in such manner as the Commission may prescribe.

(2) The Insurance Ombudsman may make a report to the Commission on any matter arising from his investigation into a complaint brought before him, in which he deems it fit or proper to do so.

(3) The Insurance Ombudsman may, in a report made under sub-section (1) or under subsection (2), make recommendations as to action to be taken, including without limitation an investigation by the Commission, or the taking of the requisite steps or legal proceedings against an insurance company which has acted



in violation of insurance laws, rules, regulations, procedures, or directives of the Commission."

14. In view of the above, the Commission initiated proceedings against the Respondents by issuance of a Show Cause Notice bearing number ID/ENF/EWLA/2017/9248 dated May 24, 2017, thereby calling upon them to show cause as to why the fine, as provided under Section 156 and Section 158 of the Ordinance should not be imposed for contravention of Section 12(1)(e) and Section 12(4) of the Ordinance.

15. Thereupon, the Respondents, vide their letter dated April 28, 2017 requested for grant of further five more days for submission of reply to the said Show Cause Notice, which was granted vide Commission's letter no.ID/Enf/EWLA/2017/9388 dated May 3, 2017 and the Company was allowed till May 8, 2017 to respond to the Show Cause Notice.

16. In response to the aforementioned Show Cause Notice, the Respondents vide letter dated May 5, 2017, made their submissions as follows:

".....

- 1. The MS Excel file named "Account Value Working" sent via our email dated January 18, 2017 the account value calculation has been made on actual basis, by putting the premiums against the date of issuance of the original receipts (ORs) for each premium.*
- 2. The difference between our excel-working sheet and issued discharge voucher has resulted because in discharge voucher our system puts the premiums against the due years instead of ORs date.*
- 3. For policy years 2007, 2008 and 2012 the management has distributed higher rates of return than the declared ones. The actual declared rates of return were 4%, 5.46% and 3.5% but the distributed rates are 6%, 6% and 5.5% respectively against the referred policy years. So, it is obvious that, by any way the offered account values are not less than the actual account values if accumulated with the actual declared rates of return.*
- 4. The Excel file attached with our email dated December 7, 2016 was sent in mistake due to resemblance in the name of the files, therefore, please ignore it and we apologize for the same.*
- 5. Further, the commission has also sought our clarification on the time leg between issuance of Provisional Receipts and Original Receipts in five noted instances in para 11 of the under reply show cause notice. In this regard, it is submitted that, if a premium against a life insurance policy is not received within the allowed time period then the status of policy will convert from enforce to Paid-up/Lapsed. Thereafter, for revival/reinstatement of the policy some medical evidence is required along with all due but unpaid premiums for issuance of the Original Premium Receipts. In these cases, it is evident from the dates of Provisional Receipts that, the*



premiums were received after lapse of longer time period from their respective due dates and were kept in suspense account till the necessary requirements were furnished by the respective policyholders. For further clarification below please find the table showing the premium due date and receiving date against each premium:

Case	Premium Due Date	Premium Receipt Issuance Date/Received Date
Dr. Humayun Rasheed	June 20, 2007	January 25, 2008
Dr. Humayun Rasheed	June 20, 2012	December 04, 2013
Dr. Humayun Rasheed	June 20, 2013	December 04, 2013
Dr. Humayun Rasheed	June 20, 2014	October 14, 2014
Raja Naubahar	December 28, 2008	May 20, 2010
Raja Naubahar	December 28, 2009	May 20, 2010

In light of the above submission/clarification we are of the firm opinion that, there is no any deficiency in the internal control system of the company in respect of the above matters, which have resulted in any understatement of the account values. Hence, there is no violation of any act or rules by the company....."

17. The Commission, vide its notice no. ID/Enf/EWLA/2017/9479 dated May 10, 2017, scheduled the hearing for May 18, 2017. However, on the request of the Respondents the hearing was rescheduled on May 24, 2017 at 11:30 am.

18. The hearing of May 24, 2017 was attended by Mr. Ajaz Hussain, Head of Actuarial & Individual Life Operations of the Company, for and on behalf of the Respondents.

19. During the hearing the Mr. Ajaz stated that the account statements were issued to the policyholders based on due date of the premiums. The policyholders have in fact benefited through this working method. He explained that actual premium are accounted for in Original Receipt basis. Mr. Ajaz further stated that delayed payment required the policyholders to meet additional requirements such as personal statement or health certificate etc. To a question, he admitted that till the requirements are met, the policyholders premium are placed in suspense account and provisional receipts are issued. Mr. Ajaz insisted that if the premiums are not received from the policyholders then the policy turned into paid up after one year. In the end, Mr. Ajaz requested the Commission to take lenient view as the statements were produced according to system of the Company and therefore were not intentional.

20. The Company was required to replicate the account values provided to the Complainants through their statements of accounts. The Company has failed to substantiate its working for statement of account issued to the policyholders. Furthermore, the Respondents explanation for the difference is that discharge voucher issued to the policyholders use premiums against the 'due years' instead of 'Original Receipt' date. The Company has to maintain uniform policy and by not



replicating the values of statement of account to the Commission, it appears that internal control issues exist. It is also apparent that the Company has misstated before the Commission by providing incorrect calculations twice. In its reply to the SCN the Respondents have admitted that *'The Excel file attached with our email dated December 7 2016 was sent in mistake due to resemblance in the name of the files, therefore, please ignore it and we apologize for the same.'*

21. During the course of regulatory proceedings, some instances were noted where the time lag between premium receipt date and premium receipt issuance date was quite high. The Company kept the premium of the policyholders in suspense account while the requirement/deficiencies for reinstatement of the policies were met. In some instances, it took more than a year to reinstate the policy resultantly the policyholders did not get investment income for that period.

22. In view of the above it appears that the Company is not conducting its business in a sound and prudent manner as it has failed to conduct its business with due regard to the interests of policy holders. Furthermore, the Company is not maintaining adequate systems of control of its business and records as different internal control issues have been observed.

23. 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 Regulation, the Ordinance and other legal references, I am of the view that the default of Section 12(1)(c) And Section 12(4) is established. Therefore, the fine as provided under Section 156 and Section 158 of the Ordinance can be imposed onto the Respondents.

24. 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."

25. Section 158 of the Ordinance:

Penalty for false statement in document.- Except as otherwise provided in this Ordinance, whoever, in any return, report, certificate, balance-sheet or other document, required by or for the purposes of any of the provisions of this Ordinance, wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable by the Commission with fine which may extend to one million rupees.



26. In exercise of the power conferred on me under Section 156 and Section 158 of the Ordinance read with S.R.O. 122(I)/2016 dated February 12, 2016, I, instead of imposing the maximum fine as provided under the said provision, impose an aggregate fine of Rs. 500,000/- (Rupees Five Hundred Thousand Only) as follows:

Sr. No.	Name of Respondents	Amount of penalty/fine (Rs.)
1	Mr. Maheen Yunus, Chief Executive	200,000
2	M/s. East West Life Assurance Company Limited	300,000
Total		500,000

27. Furthermore, the Respondents are hereby warned and directed to ensure full compliance with the Ordinance, rules, regulations and directives of the Commission in future.

28. 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.

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

Fida Hussain Samoo
Commissioner (Insurance)

