



SECP
INSURANCE DIVISION
Islamabad

Before Hasnat Ahmad, Director (Insurance)

In the matter of

Jubilee Life Insurance Company Limited

Show Cause Notice No. and ID/Enf/JubileeLife/2016/7396
Issue Date: November 8, 2016

Date of Hearing: November 29, 2016

Attended By: 1. Mr. Hasan Mandviwalla, Mandviwalla & Zafar
Advocates and Legal Consultants.
2. Barrister Raja Adnan Khan, Mandviwalla &
Zafar Advocates and Legal Consultants.

Date of Order: January 6, 2017

ORDER

Under Section 118 and Section 158 of the Insurance Ordinance, 2000.

.....

This Order shall dispose of the proceedings initiated against M/s. Jubilee Life Insurance Company Limited (the "Company") and its Directors and the Chief Executive Officer, for alleged misstatement of unclaimed insurance benefits in the audited financial statements of 2015 in contravention of the provisions of Section 158 and Section 118 of the Insurance Ordinance, 2000 (the "Ordinance"). The Company, its Directors and the Chief Executive Officer shall be referred to as the "Respondents" hereinafter.

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

3. The Company submitted its Annual Audited Accounts and Regulatory Returns (the "financial statements") for the year ended December 31, 2015 in pursuance of the provision of Section 46(1) and Section 51(1) of the Ordinance.

4. The review of the financial statements for the year ended December 31, 2015 disclosed 'unclaimed insurance benefits' pertaining to 58 policyholders amounting to Rs. 7.97 million.

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5. The Company was advised to provide details of 'unclaimed Insurance benefits' as at June 30, 2016, provided on its website, in respect of 397 policyholders and the required information was provided to the Commission on October 14, 2016.

6. The reconciliation of 'unclaimed Insurance benefits' between December 31, 2015 and June 30, 2016 revealed that unclaimed insurance benefits amounting to Rs. 9,227,648/- payable to 356 policyholders pertained to the period prior to December 31, 2015, however the same were not reported in the audited financial statements for the year end December 31, 2015. Reconciliation of the unclaimed insurance benefits is given below:

Details	Policyholders	Amount (Rs.)
Unclaimed Insurance Benefits as at Dec 31, 2015	58	7,972,304
Paid	17	5,830,193
Outstanding	41	2,142,111
Misreported	356	9,227,648
Unclaimed Insurance Benefit as on June 30, 2016	397	11,369,759

7. Circular No. 11 of 2014 (the "Circular") requires that:

....

2. Financial and Regulatory Reporting: All insurers are required to provide age-wise break-up of unclaimed insurance benefits to the Commission in accordance with Annexure 1, to be disclosed in their financial statements.

....

6. Web-Placement: All insurers are required to place on their website an updated list of all policyholders' names who have not claimed or uncashed their benefits...."

8. Section 118 of the Ordinance provides that:

"Payment of liquidated damages on late settlement of claims.- (1) It shall be an implied term of every contract of insurance that where payment on a policy issued by an insurer becomes due and the person entitled thereto has complied with all the requirements, including the filing of complete papers, for claiming the payment, the insurer shall, if he fails to make the payment within a period of ninety days from the date on which the payment becomes due or the date on which the claimant complies with the requirements, whichever is later, pay as liquidated damages a sum calculated in the manner as specified in sub-section (2) on the amount so payable unless he proves that such failure was due to circumstances beyond his control.

(2) The liquidated damages payable under sub-section (1) shall be payable for the period during which the failure continues and shall be calculated at monthly rests at the rate five per cent higher than the prevailing base rate."

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9. Section 158 of the Ordinance states that:

“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, willfully 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.”

10. It appeared that the Company *prima facie* misstated in its financial statements and also contravened the provisions of Section 118 of the Ordinance, for which the Commission may impose penalty under Section 158 of the Ordinance.

11. Hence, a Show Cause Notice bearing number Ref: ID/Enf/JubileeLife/2016/7396 dated November 8, 2016 was issued to the Respondents, thereby calling upon them to show cause as to why punitive action may not be taken against them in terms of Section 118 and 158 of the Ordinance.

12. The Respondents vide letters dated November 18, 2016 and December 5, 2016 submitted their reply, the main contents are summarized below:

i. 345 out of 397 policies relate to premium refunds due in respect of new or existing business, the Company has still uploaded list of policies on its website with the intention of facilitating and informing its customers of all payments pending towards them and hence may not be classified as unclaimed insurance benefits as per para (a), (b) & (c) of the Circular. As per the Circular, unclaimed insurance benefits have been classified into three categories as under: -

- (a) *maturity benefits under a life insurance policy which have become payable but the same have not yet been clarified;*
- (b) *other life insurance benefits which might potentially become payable due to the occurrence of a covered contingent event, for example death or disability, but the claimant have not intimated such occurrence for any reason whatsoever; and*
- (c) *outstanding claims in respect of which the cheques have been issued by the insurer for the claim settlement but the same have not been encashed by the claimant for any reason whatsoever.*

ii. That the Company is in compliance with Circular No. 18 dated December 30, 2011 which directs companies to include the following on their website:

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“The information material, in case of life insurance products, should include the benefit structure of the products, death benefit, surrender cash values and maturity value, plan terms, eligible ages and claim filing instructions”

- iii. That the Circular does not stipulate a timeframe which triggers the said policies to convert into unclaimed insurance benefits, and hence the Respondents’ interpretation of when the said policies shall be converted to unclaimed insurance benefits may vary from the interpretation of the Commission;
- iv. Allegation of misreporting may not be leveled against the Respondents as approximately all of the cases classified by the Commission as ‘Unclaimed’ fall beyond the scope of the Circular;
- v. Only 44 out of 397 unencashed cheques made out to policyholders remained unclaimed beyond the period of 3 years from due date of policy, while remaining unencashed cheques pertaining to new and existing business are beyond the scope of the Circular. Therefore, the said policies were not required to be reported in the financial statements for the year ended December 31, 2015;
- vi. The spirit of not reporting such policies in financial statements is therefore to protect the policyholders from falling into the category of ‘Unclaimed’ even though payments are outstanding towards them, as the said policies constitute actively operating accounts;
- vii. The Company has provided a revised computation, including movement schedule between December 31, 2015 and June 30, 2016 and restated the balance on June 30, 2016 after excluding the transactions relating to new business refunds and PHS refunds as under: -

Policy Wise Unclaimed Insurance Benefits/Payment Due-ILUL revised position as at June 30, 2016

	No. of Cases	Rupees	Rupees
Balance reported as at June 30, 2016	397		11,369,759
Add: New Additions during the period January 1, 2016 to June 30, 2016			
Less: Adjustment for:			
New Business refunds now excluded	53	1,415,660	
PHS refunds now excluded	292	7,129,111	
Sub-total	345		8,544,771
	52		2,824,988



**Policy wise Unclaimed Benefits/ payments due –ILUL
Reconciliation between December 31, 2015 & June 30, 2016- as reported**

	No. of Cases	Rupees	Rupees
Balance as on December 31, 2015	58		7,972,304
Add: Additional Cases reported during the period	355		9,203,386
Sub-total	413		17,175,690
Less:			
Payments made during January to June 2016	16	5,805,931	
New Business refunds now excluded	53	1,415,660	
PHS refunds now excluded	292	7,129,111	
Sub-total	<u>361</u>		14,350,702
	<u>52</u>		<u>2,824,688</u>

viii. Section 118 can only be invoked only in cases where the insurer has failed to make a payment to the policyholder within a period of 90 days from the date on which the payment became due or the date on which the policyholder fulfilled/complied with all the requirements. Payments remain pending not on account of delay by the Company in processing the payments of the policyholders, but rather, after issuance of the cheques or payment instruments to them, the policyholders do not present them for payment; and

ix. The provision of Section 158 can only be invoked in case there is a willful false statement of any material particular, knowing it to be false. There has been no such willful false statement on the part of the Company. In fact, the Company has made additional information available on its website for the facilitation of its policyholders.

13. The Commission, vide its notice no. ID/Enf/JubileeLife/2016/7592 dated November 22, 2016, scheduled the hearing for November 29, 2016.

14. The hearing was attended by Mr. Hasan Mandviwalla and Barrister Raja Adnan Khan from Mandviwalla & Zafar Advocates and Legal Consultants for and behalf of the Company. The Respondents reiterated their written comments submitted by them. They were of the view that 356 policies did not fall under unclaimed benefits category. They further stated that the Company has made additional disclosures by making information related to such policyholders available on their website. The Respondents maintained that the Company did not make any misstatement in the financial statements.

15. 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

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the Ordinance and other legal references. In view of the comments provided by the Respondents in the foregoing paragraphs, I am satisfied by the explanation and therefore, I close the proceedings without any adverse order against the Respondents.

16. 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 or Directors of the Company) in accordance with the law on matters including those subsequently investigated or otherwise brought to the knowledge of the Commission.

Hasnat Ahmad
Director (Insurance)

