



INSURANCE DIVISION
Islamabad

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Before Fida Hussain Samoo, Commissioner (Insurance)

In the matter of

Continental Insurance Company Limited

Show Cause Notice No. and Issue Date: ID/Enf/Continental/2017/12655 dated
November 6, 2017

Date of Hearing: December 5, 2017

Syed Nayyar Hasnain Haider
Managing Director
M/s. Continental Insurance Company
Limited

Attended By: Mr. Zubair Ali Khan
Chief Accountant
M/s. Continental Insurance Company
Limited

Date of Order: December 12, 2017

ORDER

Under Regulation 3 of Part B of the Accounting Regulations for Non-Life Insurers of
the Securities and Exchange (Insurance) Rules, 2002, Section 46(1)(b) and Section 51
read with Section 156 of the Insurance Ordinance, 2000

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This Order shall dispose of the proceedings initiated against M/s. Continental Insurance Company Limited (the "Company"), its Chief Executive and Directors for alleged contravention of Regulation 3 of Part B of the Accounting Regulations for Non-Life Insurers of the Securities and Exchange (Insurance) Rules, 2002 (the "Rules"), Section 46(1)(b) and Section 51 of the Insurance Ordinance, 2000 (the "Ordinance"). The Company, its Chief Executive and Directors shall be collectively referred to as the "Respondents" hereinafter.

2. During examination of the Annual Audited Accounts and Regulatory Returns for the year ended December 31, 2015, it was observed that the Annual Regulatory Returns filed by the Company under Section 46(1)(b) read with Section 51(1) of the Ordinance were not in conformity with the requirements of Regulation 3 of the Rules.



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3. The Commission, vide letter dated January 27, 2017 advised the Company to submit its response to the following discrepancies noted in Form GH (Statement of Claims Analysis) for the year ended December 31, 2015:-

- I. Balances reported in Form - GH (Statement of Claim Analysis) of regulatory returns donot reconcile with the figures in the financial statements for the year ended 31 December 2015;
- II. In respect of outstanding claims and reinsurance recoveries, Company has reported closing balances, whereas, as per given formats of regulatory returns only the amount of claims notified in the accident /policy year are required to be reported;
- III. In respect of claims paid and reinsurance recoveries received, the Company has reported the amount of claim expense and reinsurance & other recoveries revenue for the year, instead of actual amount of claim paid and reinsurance received during the year;

4. The Company in its response dated August 03, 2017, stated that;

"we apologize for the discrepancies in the statement. As there is no specific guidelines in the Insurance Ordinance 2000, and SEC Rules 2002, for its preparation, we had interpreted it wrong. We have now noted your instruction and we will rectify the statements and submit you its amended copy"

5. In view of the above, it appeared that the Respondents contravened the provisions of Regulation 3 of the Rules read with Section 46(1)(b) and Section 51(1) of the Ordinance.

6. Regulation 3 of the Rules states that:

"Provisions applicable only to Regulatory Returns:- (1) The form of Regulatory Returns shall consist of the following which shall be submitted according to the published Forms annexed to these Regulations:

- Balance Sheet (Form GA), which shall be deemed to constitute the "Statement of Assets and Liabilities" required by S46(1)(b)(i) of the Ordinance.
- Profit and Loss Account (Form GB), which shall be deemed to constitute the "statement of profits and losses" required by S46(1)(b)(ii) of the Ordinance.
- Statement of Cash Flows (Form GC) required under S46(1)(b)(iii) of the Ordinance.
- Statement of Premiums (Form GD) required under S46(1)(b)(iv) of the Ordinance.
- Statement of Claims (Form GE) required under S46(1)(b)(v) of the Ordinance.
- Statement of Expenses (Form GF) required under S46(1)(b)(vi) of the Ordinance.
- Statement of Investment Income (Form GG) required under S46(1)(b)(vii) of the Ordinance.
- Statement of Claims Analysis (Form GH) required under S46(1)(b)(viii) of the Ordinance.



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- Statement of Exposures (Form GI) required under S46(1)(b)(ix) of the Ordinance.
- Statement of Assets for Solvency Purposes (Form GJ) which is hereby prescribed under S46(1)(b)(x) of the Ordinance.
- Classified Summary of Assets in Pakistan (Form GK) which is hereby prescribed under S46(1)(b)(x) of the Ordinance.

(2) Where an insurer controls other entities, consolidated Regulatory Returns are not required to be presented.

(3) Explanatory Notes are not required except as specified in these Regulations or as specified in the Forms."

7. The relevant provisions of Section 46(1)(b) of the Ordinance state 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;
 - (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."

8. The relevant provision of Section 51(1) of the Ordinance provides that:

"Submission of returns: - (1) The audited statements and report referred to in subsections (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."



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9. Therefore, a Show Cause Notice (SCN) No. ID/Enf/Continental/2017/12655 dated November 6, 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.

10. The Company vide letter dated November 7, 2017 requested to grant an extension of 15 days to collate the requisite information and appear for hearing in person. The Commission vide its letter dated November 20, 2017 scheduled the hearing on November 27, 2017. Nonetheless, on November 27, 2017, the Company submitted request to reschedule the hearing to any other date. The request of the Company was acceded to and hearing was rescheduled on December 5, 2017.

11. The hearing of December 5, 2017 was held at the Head Office of the Commission in Islamabad, which was attended by Syed Nayyar Hasnain Haider, Managing Director of the Company, who appeared for hearing in his personal capacity as well as representing other members of the Board. He was accompanied by Mr. Zubair Ali Khan, Chief Accountant of the Company as an Authorized Representative, representing the Respondents before the Commission in the instant matter.

12. During the hearing, the Authorized Representative apprised the Commission that the Regulatory Returns for the year ended December 31, 2015 have been restated and discrepancies highlighted by the Commission in Form GH have been addressed. They requested the Commission to take lenient view in the matter and assured to comply with all the requirements in future.

13. The Company did not submit its Annual Regulatory Returns in conformity with the requirements of Regulation 3 of the Rules filed by the Company under Section 46(1)(b) read with Section 51(1) of the Ordinance. The Respondents in its earlier reply have accepted the contravention with the aforesaid Rules and accordingly revised the regulatory returns for the year ended December 31, 2015. It is clarified that all formats/and guidelines were available in the Rules and it is not the new requirement that the Company may have overlooked. It can be inferred that the Company did not prepare the Regulatory Returns in accordance with Regulation 3 of the Rules.

14. 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 the Code, I am of the view that the default of Regulation 3 of the Rules, Section 46(1)(b) and Section 51 of the Ordinance is established. The Company has also accepted its default. Therefore, fine as provided under Section 156 of the Ordinance can be imposed on the Company and/or its Directors & Chief Executive Officer.

15. Section 156 of the Ordinance provides that:



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"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."

16. However, before proceeding further, I find it relevant to discuss the duties of the Directors who are, in addition to the day-to-day running of the Company and the management of its business, also have some 'fiduciary' duties i.e. duties held in trust and some wider duties imposed by statute. Hence, the Directors are gauged against a higher standard of accountability which requires them to be vigilant and perform their duties with due care. In the instant case, however, the Directors have failed to perform their duties with due care and prudence. As the Directors are supposed to be well aware of their legal obligations in connection with the aforesaid statutory requirement of Regulation 3 of the Rules, Section 46(1)(b) and Section 51 of the Ordinance, therefore, it could be legitimately inferred that the default was committed knowingly and willfully.

17. In exercise of the power conferred on me under Section 156 of the Ordinance read with S.R.O. 750(I)/2017 dated August 2, 2017, I, instead of imposing the maximum fine as provided under the said provisions, impose a fine of Rs. 200,000/- (Rupees Two Hundred Thousand Only) on the Company due to the default of Regulation 3 of the Rules, Section 46(1)(b) and Section 51 of the Ordinance, as mentioned in the above paras hereof. The Respondents are hereby warned to ensure full compliance with the Ordinance, Rules, Regulations and Directives of the Commission in future.

18. 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.

19. 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.

Fida Hussain Samoo
Commissioner (Insurance)

