



SECP

**Fida Hussain Samoo**  
Commissioner

Before Fida Hussain Samoo, Commissioner (Insurance)

In the matter of

East West Life Assurance Company Ltd

Number and date of show cause notice:	No. EMD/Enf/EWLA/2016/4299 dated March 9, 2016.
Date of hearing:	April 12, 2016.
Present:	i. Mr. Imran Ali Dodani, Chief Operating Officer; ii. Mr. Ajaz Hussain, Assistant General Manager, Head of Actuarial Department (the "Authorized Officers")

**Order under Sections 76, Section 118 read with Sections 60 and 156 of the Insurance Ordinance, 2000**

This Order shall dispose of the proceedings pertaining to the matter of Show Cause Notice bearing No. EMD/Enf/EWLA/2016/4299 dated March 9, 2016 (hereinafter referred to as the "Notice") under Sections 76, Section 118 read with Sections 60 and 156 of the Insurance Ordinance, 2000 (hereinafter referred to as the "Ordinance") served on the Chairman, Chief Executive, Directors of East West Life Assurance Company Limited (hereinafter referred to as the "Company") and the Company.

2. The facts leading to this case briefly stated are that, a number of complaints were filed by the policyholders against the Company on substantial delays in payments of their claims which were forwarded to the Company for necessary action and comments. The comments/information provided by the Company validated substantial delays in payments of claims by the Company, as follows:

S No.	Name of Policyholder	Policy/ Folio No.	Claim Due Date	Payment Date	Over Due- Days
1.	Mr. Shahbaz Akram	R-09403075	May 31, 2014	Jan 19, 2016	598
2.	Mr. Ahmed Ali Awan	3664	Dec 27, 2014	Jan 27, 2016	396
3.	Mr. Ibniaz Khan	3111	Dec 28, 2012	Dec 23, 2015	1090
4.	Mst. Salma Bibi	R12403864	Jul 06, 2015	Jan 27, 2016	205
5.	Mst. Kiran Amjad	L02102748	Jun 02, 2014	Not Paid Todate	645
6.	Mst. Shaheen Amjad	L04103892	Jun 02, 2014	Not Paid Todate	645

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3. It was transpired from the data that claims were paid by the Company consequent to grievance being agitated by the complainants before the Commission and that too after numerous reminders/ actions by the Commission:

S No.	Name of Policyholder	Amount of Claim/ refund (Rs.)	Claim Due Date	Date of Complaint	Complaint forwarded to the Company	Claim Paid Date
1.	Mr. Shahbaz Akram	897,184	May 31, 2014	Nov 23, 2015	Nov 26, 2015	Jan 19, 2016
2.	Mr. Ahmed Ali Awan	126,435	Dec 14, 2015	Dec 8, 2015	Dec 10, 2015	Jan 27, 2016
3.	Mr. Ibniaz Khan	56,659	Dec 28, 2012	Dec 14, 2015	Dec 16, 2015	Dec 23, 2015
4.	Mst. Salma Bibi	613,874	Jul 06, 2015	Dec 31, 2015	Dec 31, 2015	Jan 27, 2016
5.	Mst. Kiran Amjad	194,796	Jun 02, 2014	Feb 15, 2016	Feb 17, 2015	Not Paid upto date
6.	Mst. Shaheen Amjad	180,663	Jun 02, 2014	Feb 15, 2016	Feb 17, 2105	Not Paid upto date

4. Thus the Notice was issued to the following Chairman, Chief executive, Directors of the Company and the Company (hereinafter referred to as the "Respondents") who prima facie authorized the contraventions of the provisions of the Ordinance:

S.No	Names of Directors
1.	Mr. Chief Justice (R) Mian Mahboob Ahmad, Chairman
2.	Mr. Maheen Yunus, Chief Executive Officer
3.	Mr. A. K. M. Sayeed, Director
4.	Mr. Umeed Ansari, Director
5.	Mr. Javed Yunus, Director
6.	Mr. Pervez Yunus, Director
7.	Mr. Naved Yunus, Director
8.	Mr. Omar P. Yunus, Director
9.	East West Life Assurance Company Limited

The aforesaid persons were called upon to show-cause, in writing, within 10 days of the date of Notice as to why necessary penal action may not be taken against them, as provided under Section 76, Section 118 read with Section 156 of the Ordinance and why they may not be directed to comply with the directions of the Commission as provided in Section 60 of the Ordinance.

5. In response, Mr. Imran Ali Dodani, Chief Operating Officer (COO) of the Company vide letter dated March 24, 2016 replied on behalf of the Respondents to the Notice by stating that the Respondents are of the firm opinion that nothing is misleading to the policyholders as provided in Section 76 of the Ordinance as the delay occurred in processing of claims due to late or non-submission of the required necessary documents/information from the policyholders which is not in

breach of Section 118 of the Ordinance. The status of the complaints submitted in reply is summarized as follows:

S No.	Name of Policy holder	Reply by Imran Ali Dodani, Chief Operating Officer (COO) of the Company vide letter dated March 24, 2016
1.	Mr. Shahzad Akram	Policy matured on April 30, 2014, delay was due to incomplete information/clarification/documents from policyholder for claim payment. Discharge voucher was sent on Dec 12, 2015 and final settlement of claim made through cheque on Jan 19, 2016.
2.	Mr. Ahmed Ali Awan	Policy matured on Dec 27, 2014, the complainant informed about the death of insured Mr. Muhammad Janmil Akhter and requested to transfer the benefits in his name. The Complainant delayed in submission of documents/information related to death of the policy holder. However, considering the directions of the Commission to resolve the case, the discharge voucher was sent on Dec 11, 2015 and final settlement of claim made through cheque on Jan 27, 2016.
3.	Mr. Ibniaz Khan	Policy matured on Dec 28, 2013, the policyholder delayed in submission of documents/information. However, considering the directions of the Commission to resolve the case, the discharge voucher was sent on Dec 11, 2015 and final settlement of claim made through cheque on Jan 27, 2016.
4.	Mst. Salma Bibi	Request for surrender of the policy cash value received on July 15, 2015. The Company tried to convince the policyholder however, on Aug 13, 2015 the letter was dispatched to provide the necessary documents for processing the request. The policyholder delayed in completion of required information/clarification/documents. However, considering the directions of the Commission to resolve the case, the discharge voucher was sent on Jan 4, 2016 and final settlement of claim made through cheque on Jan 27, 2016.
5.	Mst. Kiran Amjad	Request Letter along with death certificate received on June 2, 2014. On request certain information/documents was provided in pieces and parcels till Nov 20, 2014. After completion of documents, the discharge voucher was issued on Jan 4, 2016, however, a legal notice is received which has been responded. The claim will be settled as the discharge voucher is received.
6.	Mst. Shaheen Amjed	Request Letter along with death certificate received on June 2, 2014. On request certain information/documents was provided in pieces and parcels till Nov 20, 2014. After completion of documents, the discharge voucher was issued on Jan 4, 2016, however, a legal notice is received which has been responded. The claim will be settled as the discharge voucher is received.

6. The complaints remained unresolved during the corresponding period and in case of settlement, it was being done on the intervention of the Commission. Being unsatisfied with the representation made by the COO of the Company and in order to provide the opportunity of being heard, the hearing of the case was fixed for April 21, 2016, to be held at Company Registration Office (CRO), Karachi, of the Commission.

7. On the date of hearing, Mr. Imran Ali Dodani, Chief Operating Officer and Mr. Ajaz Hussain, Assistant General Manager and Head of Actuarial (the "Authorized Representatives") for

Respondents appeared before the undersigned to plead the case. The Authorized Representatives reiterated the same arguments as were given through written submission in response to the Commission's Notice. The Authorized Representatives were told that the Complaints received contain maturity, surrender as well as death cases and the main reason behind is the late payment of claim or non-payment of claims outstanding for over the years. The Authorized Representatives of the company argued that delays are minor and are due to late submission of requisite documents by the policyholders or the claimants, further argued that the number of complaints have been reduced as the grievances management system of the Company has been improved. On enquiring with respect to liquidated damages paid if any, on the late payment of claims, the Authorized Representatives stated that the reason of the late payment of claims is late submission of information/documents by the policy holders therefore no liquidated damages are paid to the policyholders or claimants. Moreover, the Authorized Representatives were highlighted about the increased numbers of complaints in the matter of East West Life Assurance Company Limited to which it was pleaded that they are in process of settlements with the complainants, however, agreed to come up with resolution of all the complaints and assured that the Company being a law abiding corporate citizen would remain more observant in future.

8. Before proceeding further, it is appropriate to reproduce the relevant provisions of the Ordinance.

***Section 76 - Insurer not to engage in misleading or deceptive conduct:***

- (1) An insurer shall not, in the course of its business as an insurer, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.
- (2) The inclusion in an insurance policy of unusual terms tending to limit the liability of the insurer, without the express acknowledgement of the policy holder, shall constitute misleading or deceptive conduct.
- (3) Nothing contained in sub-section (2) shall be taken as limiting by implication the generality of sub-section (1).
- (4) Where a policy holder has relied upon any representations by an insurer or by an agent of an insurer which are incorrect in any material particular, inasmuch as it has the effect of misleading or deceiving the policy holder in entering into a policy, the policy holder shall be entitled to obtain compensation from the insurer for any loss suffered.
- (5) Notwithstanding the provisions of the foregoing sub-section, the Commission shall also have the power to levy a fine on the insurer which shall be equal to the lesser of twice the loss determined to be suffered by the policy holder under the foregoing subsection and ten million rupees.

***Section 118- 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.

Explanation: for the purposes of this sub-section, failure or delay by any person in making payment (including without limitation payment under a contract of reinsurance) to an insurer shall not constitute circumstances beyond the control of the insurer.

(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.

9. The review of the complaints and assessment of representations made by the respondents confirmed that Insurer is engaged in misleading/ deceptive conduct. The Policyholders were paid claims after substantial delays and the justification provided was non-completion of documentation for claims processing. Trivial issues are raised and payment of claims is withheld. The claims on maturity cases are also withheld and claimants have to undergo unnecessary ordeal of getting their own money. The Company is playing tactfully with its policyholders and made substantial delays in paying the claims. It has failed to make payments even after a period of ninety days from the date of maturity of the policy or from the date of surrender of the policy in cash value.

10. I have carefully examined and given due consideration to the written as well as verbal submissions of the Respondents through the Authorized Representatives and have also referred to the provisions of the Ordinance. I am of the view that there has been an established default of Section 76 and Section 118 of the Ordinance for which the penal action may be taken in terms of Section 76(5) of the Ordinance, which provides that the Commission shall have the power to levy a fine on the insurer which shall be equal to the lesser of twice the loss determined to be suffered by the policy holder under the foregoing subsection and ten million rupees. Moreover, in terms of Section 118(2) of the Ordinance, the liquidated damages shall be paid for the period during which the failure continues and shall be calculated at monthly rests at the rate of five per cent higher than the prevailing base rate. Therefore, I, in exercise of powers conferred upon me under Section 76(5) and Section 118(2) of the Ordinance, impose a penalty of Rs. 1,000,000 (Rupees One Million only) on the Chief executive and Directors of the Company in the following manner:

S.No	Names of Directors	Penalty (Rupees)
1.	Mr. Chief Justice (R) Mian Mahboob Ahmad, Chairman	110,000
2.	Mr. Maheen Yunus, Chief Executive Officer	110,000
3.	Mr. A. K. M. Sayeed, Director	110,000
4.	Mr. Umeed Ansari, Director	110,000



5.	Mr. Javed Yunus, Director	110,000
6.	Mr. Pervez Yunus, Director	110,000
7.	Mr. Naved Yunus, Director	110,000
8.	Mr. Omar P. Yunus, Director	110,000
9.	East West Life Assurance Company Limited	120,000
	<b>Total</b>	<b>1,000,000</b>

11. The Respondents are, hereby, directed to deposit the afore-mentioned amount of penalty in the designated bank account maintained in the name of the Commission with MCB Bank within thirty days from the receipt of this Order and furnish the receipted bank challans to the Commission. In case of failure to deposit the penalty, proceedings under the Land Revenue Act, 1967 will be initiated for recovery of the fines as arrears of land revenue. It may also be noted that the said penalty is imposed on the Respondents in their personal capacity; therefore, they are required to pay the said amount from personal resources.

12. The Company is directed to immediately settle long outstanding claims and provide compliance report ("Report") to the Commission, within 30 days from the date of this Order. The Report should provide details of all outstanding claims upto May 15, 2016 and date since these were outstanding, duly certified by the statutory auditors of the Company. Moreover, the Company is directed to pay liquidated damages to the complainants/ claimants calculated for the period during which the failure continued at monthly KIBOR rate plus five per cent, within thirty days from the date of this Order.

13. Failure to the above, the action as provided in Section 63(1) of the Ordinance shall be initiated without prejudice to the operation of any provision of the Ordinance against East West Life Assurance Company Ltd, in respect of any default, omission, violation of the Insurance Ordinance, 2000, and rules framed there under, committed.



**Fida Hussain Samoo**  
Commissioner (Insurance)



*Announced:*  
May 17, 2016  
Islamabad.