



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN INSURANCE DIVISION

[Karachi]

Before Nasreen Rashid, Executive Director (Insurance)

In the matter of

Pakistan General Insurance Company Limited

Date of Show Cause Notice: May 06, 2010

Date of Hearing: July 27, 2010

Attended by: Mr. Azhar Hafeez, Chief Financial Officer- Pakistan General Insurance Company Ltd.

Date of Order: August 31, 2010

ORDER

(Under Section 46 (1) (b), Part B of Annexure II of the Securities and Exchange Commission (Insurance Rules), 2002, Section 51(1) read with Section 156 of Insurance Ordinance, 2000)

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This Order shall dispose of the proceedings initiated against Pakistan General Insurance Company Limited (hereinafter referred to as ("the Company")) for making a default in complying with the provisions of Section 46(1)(b) of the Insurance Ordinance, 2000 ("the Ordinance"), Part B of Annexure II of the Securities and Exchange Commission (Insurance Rules), 2002, Section 51(1) read with Section 156 of the Ordinance.

Background Facts

2. The relevant facts for the disposal of this case briefly stated are, that while examining the Annual Accounts and relevant documents of the Company it was revealed that the Company had failed to provide the Commission with the Regulatory Returns.

3. Section 46 of the Ordinance states that:



"(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.

Further to the aforesaid provision, Annexure II of Securities and Exchange Commission (Insurance Rules) 2002 clearly states that:

"3. 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.
- 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.

4. In pursuance of Section 51(1) of the Ordinance which states that:



*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.*

Show Cause Notice

5. It was observed that the company was in default with regard to the aforesaid provisions of the Ordinance and therefore a Show Cause Notice ("SCN") dated May 06, 2010 under Section 46(1)(b), Part B of Annexure II of the Securities and Exchange Commission (Insurance Rules), 2002, Section 51(1) read with Section 156 of Insurance Ordinance, 2000 was served to the Chief Executive and Directors of the Company, calling upon them to explain in writing as to why appropriate action may not be taken against the Company under the law for the aforesaid contravention.

Company Reply

6. Vide their letter dated May 14, 2010, the Company, in response to the SCN, requested that the SCN may be withdrawn on the premise that it had already submitted the prescribed statements in its package dated April 27, 2010 and received by the Commission on May 3, 2010 and was once again enclosing the forms.

Hearing Proceedings

7. Therefore a hearing was called at 12:00 P.m. on July 27, 2010 for which a hearing notice was sent to the Chief Executive and Directors of the Company, first on June 21, 2010 and then on July 14, 2010, since the company could not appear for its first date of hearing, to explain the circumstances which had led to such non-compliance. The said hearing was attended by Mr. Azhar Hafeez, Chief Financial Officer of the Company on behalf of the Chief Executive and Directors of the Company. He emphasized that he had included a copy of the Regulatory Returns in the package he had sent and also presented the courier receipt of Leopards Courier Services (Pvt.) Ltd. However, a mere presentation of a courier slip can NOT prove the submission of documents unless the said documents are listed on that slip and have been received by the Commission.

Conclusion

8. After carefully examining the arguments and studying the facts and findings of the case as mentioned in the above paras of this Order, the default of Section 51(1) read with Section 156 of the Ordinance has been established. Therefore action against the Company may be taken by imposing a fine under Section 156 of the Ordinance which states 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, 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



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continuing default, with an additional fine which may extend to ten thousand rupees for every day during which the default continues."

Order

9. In exercise of powers conferred on me under section 156 of the Ordinance, instead of imposing a fine on the company, I am taking a lenient view with regard to this non-compliance of the company and condoning the aforesaid default this time. Hence the CEO and Directors of the Company are hereby **WARNED** to comply with the aforesaid provisions in the future.

Nasreen Rashid
Executive Director (Insurance)