



SECP
INSURANCE DIVISION
Islamabad

Before Hasnat Ahmad, Director (Enforcement)

In the matter of

Pakistan Mutual Insurance Company (Guarantee)Limited

Show Cause Notice No. and Issue ID/Enf/PakistanMutual/2019/345
Dated April 4, 2019

Date of Hearing: September 27, 2019

Attended By: Mr. Hussain Tahir Zaidi
Advocate

Date of Order: November 1, 2019

ORDER

Under Rule 8 of the Insurance Rules 2017 read with Section 11(3) and Section 156 of the Insurance Ordinance, 2000.

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This Order shall dispose of the proceedings initiated against M/s. Pakistan Mutual Insurance Company (Guarantee) Limited (the "Company"), its Chief Executive and Directors for alleged contravention of Rule 8 of the Insurance Rules 2017 (the "Rules") read with Section 11(3) of the Insurance Ordinance, 2000 (the "Ordinance"). The Company, its Chief Executive and Directors shall be collectively referred to as the "Respondents" hereinafter.

2. As per Rule 8 of the Rules read with Section 11(3) of the Ordinance, every registered insurer is required to pay to the Commission, on or before fifteenth day of January in every calendar year, an Annual Supervision Fee ('ASF') which shall be the greatest of Rs. 100,000/- or at the rate of Rs. 2.00 per thousand of gross direct premium written in Pakistan during the calendar year, preceding to the last year, subject to maximum of rupees fifty million.

3. The Commission vide letter dated January 28, 2019 advised the Company to deposit the Annual Supervision fee for the year 2019, however, no response of the Company was received, despite issuance of reminders vide emails dated January 30, 2019 and February 26, 2019.

4. The Company failed to deposit the annual supervision fee for the year 2019, which was required to be deposited by January 15, 2019. Hence, it appeared that the Respondents failed to meet the mandatory requirements of Rule 8 of the Rules read with Section 11(3) of the Ordinance.

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5. Rule 8 of the Rules provides that:

Annual supervision fee to be paid by an insurer in terms of clause (c) of sub-section (3) of section 11 of the Ordinance.- Every insurer registered under the Ordinance shall pay to the Commission, on or before the fifteenth day of January in every calendar year, an annual supervision fee at the rate of Rs. 2.00 per thousand of gross direct premium written in Pakistan during the calendar year preceding to the last year, subject to a maximum of rupees fifty million.

6. Section 11(3) of the Ordinance requires that:

“(3) An insurer registered under this Ordinance shall pay to the Commission, on or before the fifteenth day of January in every calendar year, an annual supervision fee of the greatest of:

(a) Rs. 100,000;

(b) one rupee per thousand of gross direct premium written in Pakistan during the calendar year preceding the calendar year ended on the previous 31st day of December; or

(c) such amount as may be prescribed.”

7. Accordingly, a Show Cause Notice (SCN) ID/Enf/PakistanMutual/2019/345 dated April 4, 2019 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.

8. The Company failed to submit reply to the SCN within stipulated time. In order to proceed further, it was decided to provide hearing opportunity to the Respondents and accordingly hearings were scheduled as mentioned in the table below: -

| Sr. # | Hearing Date | Status |
|-------|--------------------|--|
| 1 | August 7, 2019 | Adjourned |
| 2 | August 28, 2019 | Adjourned |
| 3 | September 27, 2019 | Attended by the Authorized Representative of the Respondents |

9. The hearing of September 27, 2019 was held at the Head Office of the Commission, which was attended by the Authorized Representative of the Respondents namely Mr. Hussain Tahir Zaidi who opted to appear for the hearing through video link from Commission's Lahore Office. During the hearing, the Authorized Representative argued that the Company is inactive since 2016 and Respondents are taking steps to voluntarily wind up the Company. He stated that as a mutual insurer, its policyholders are its members. As the Company ceased its underwriting back in 2016 and all the policies issued by the Company completed their one year term in 2017. Therefore, the Company currently does not have any



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policyholder/member. In the absence of any member, the Company is finding it hard to pass the special resolution. The Authorized Representative assured to resolve this matter upon return of Ex Chief Executive Officer of the Company, from abroad. The Authorized Representative sought two weeks' time to communicate the status on the decision of the voluntary revocation / winding up of the Company.

10. Thereafter, the Company vide letter dated October 16, 2019 submitted the application under Section 9(2) of the Ordinance for revocation of registration to carry on insurance business. The contents of the aforesaid letter are reproduced below:-

"Kindly note that Pakistan Mutual Insurance Company (Guarantee) Limited (hereinafter the "Company") has for a period of almost four years (a) ceased to carry out its business; (b) not, entered into any new insurance contracts; (c) paid off all its employees and currently not a single person is working as employee of the Company; (d) closed down all email servers/connections and there is no employee to receive emails for and on behalf of the Company; (e) shut down all its offices, telephone connections etc; and (f) become completely non-operational. The Company does not have any shareholders since there are no policy holders of the Company. In the circumstances, the Board of Directors of the Company vide its resolution dated, 12-10-2019 decided to initiate process of voluntary winding up the Company (Extract of the resolution of the Board of Directors dated 12-10-2019 is attached herewith).

In this respect the Company seeks approval under the Insurance Ordinance, 2000 for revocation of its registration to carry on insurance business. It may be noted the Company has already settled all of its liabilities incurred under the insurance contracts.

In light of the aforesaid, it is most respectfully submitted that the registration of the Company to carry on insurance business may kindly be revoked."

11. The Show Cause Notice was issued for non-payment of annual supervision fee for the year 2019, which was required to be deposited by January 15, 2019 as per Rule 8 of the Rules read with Section 11(3) of the Ordinance. Further, the Respondents failed to respond to the Commission's letters, reminding them to pay the Annual Supervision Fee. As per letter dated January 28, 2019, the Company was clearly warned to 'deposit the fee within 7 days in accordance with the provision of Section 11(3) of the Insurance Ordinance, 2000 read with Rule 8 of the Insurance Rules, 2017, failure to which, the necessary action under the relevant provisions of the law shall be initiated.'. The Company was also reminded through emails dated January 30, 2019 and February 26, 2019 but the Respondents failed to comply with the said provisions of the Ordinance. The Respondents were provided ample opportunity to comply with the requirements of law, however they failed to comply, hence, the Show Cause was issued on April 4, 2019.

12. As per provisions under Section 11(3) of the Ordinance mentioned above, the Company, as a registered insurer, was liable to pay the minimum prescribed fee i.e. Rs. 100,000 to the Commission, even if the Company did not underwrite any premium during the financial year. Nonetheless, it is evident from the record that the Company did not pay the ASF. The Authorized Representative did not make any arguments of



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the merit of the case. As such application of the Company for voluntary revocation does not exonerate Company from making minimum payment of ASF.

13. After carefully reviewing the facts and findings of the case as mentioned in the preceding paras, the default of Rule 8 of the Rules read with Section 11(3) of the Ordinance has been established. Therefore, fine upon the Respondents may be imposed under Section 156 of the Ordinance.

14. Section 156 of the Ordinance provides 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, 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.”

15. In exercise of the power conferred on me under Section 156 of the Ordinance, I, instead of imposing a fine, take a lenient view, as the Respondents have applied for voluntarily revocation of the Company. However, the Company is directed to deposit the balance amount of Annual Supervision Fee within one month of the date of this Order.

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 CEO of the Company) in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

Hasnat Ahmad
Director/HoD (Enforcement)

