



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 Date ID/Enf/PakistanMutual/2019/1724  
Dated September 13, 2019

Date of Hearing: September 27, 2019

Attended By: Mr. Hussain Tahir Zaidi  
Advocate

Date of Order: November 4, 2019

**ORDER**

under Clause (lxxvi), (lxxvii), (lxxviii), (lxxviii), (lxxix) and (lxxx) of the Code of Corporate Governance for Insurer, 2016 and Section 34, Section 46, Section 51 read with Section 156 of the Ordinance, 2000

.....

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 Clauses (lxxvi), (lxxvii), (lxxviii), (lxxviii), (lxxix) and (lxxx) of the Code of Corporate Governance for Insurer, 2016 (the "Code") and Section 34, Section 46, Section 51 read with Section 156 of the Ordinance, 2000 (the "Ordinance"). The Company, its Chief Executive and Directors shall be collectively referred to as the "Respondents" hereinafter.

2. The Commission vide its Directive under Section 63 of the Ordinance dated June 24, 2008 directed the Company to cease entering into new insurance contracts. The Supreme Court vide its Order dated January 25, 2016 dismissed the appeal of the Respondents as withdrawn and the Commission's Directive dated June 24, 2008 to cease the business of the Company was restored

3. Facts of the matter are that the Company did not submit annual audited accounts and regulatory returns for the year ended December 31, 2018 as per requirements of Section of 46 read with Section 51 of the Ordinance.

4. Moreover, the Company did not submit the statement of compliance with the Code and annual statement of compliance with Section 11 and 12 of the Ordinance for the year ended December 31, 2018 as per requirements of Clauses lxxvi, lxxvii, lxxviii, lxxix and lxxx of the Code.



5. The Company also failed to submit Valuation Report on the estimation of IBNR for the year ended December 31, 2018 to the Commission as per requirements of Circular 9 of 2016 of the Commission (issued under Section 34(3) of the Ordinance).

6. The above statements/returns were required to be submitted by April 30, 2019. In this regard, a reminder letter dated July 1, 2019 was issued to the Company to submit annual audited accounts and other statements/returns for the year ended December 31, 2018 without any further delay. However, no response was received from the Company.

7. Clause (Ixxvi), (Ixxvii), (Ixxviii), (Ixxix) and (Ixxx) of the Code states that:

**a. Clause (Ixxvi) of the Code**

*The insurer shall make out and circulate a statement along with their annual reports to set out the status of their compliance with the best practices of corporate governance as per the format given in the Annexure I.*

**b. Clause (Ixxvii) of the Code**

*The insurer shall ensure that the statement of compliance with the best practices of corporate governance is reviewed and certified by statutory auditors, where such compliance can be objectively verified, before publication by insurer.*

**c. Clause (Ixxviii) of the Code**

*Along with the financial statements and regulatory returns as required under subsection (1) of section 46 of the insurance Ordinance, 2000, insurer shall file with the Securities and Exchange Commission of Pakistan, an annual certificate of compliance duly signed by the Chief Executive Officer (by whatever name called) and two directors, confirming the status of compliance with the provisions of section 11 and section 12 of the Insurance Ordinance, 2000 during the year. as per the format given in the Annexure II.*

**d. Clause (Ixxix) of the Code**

*The content of the said annual certificate of compliance should be reviewed and certified by the statutory auditor of the insurer, and the review report should also be filed along with the said certificate.*

**e. Clause (Ixxx) of the Code**

*In case during the period referred to in the certificate, an insurer has not been in compliance with any of the requirements of section 11 and / or section 12 of the Insurance Ordinance, 2000 the same should be disclosed in the declaration and the reasons for 'non-compliance thereof should also be provided by the insurer as note to the said certificate.*

8. Section 34 of the Ordinance provides that:

*(1) For the purposes of this Part, assets and liabilities shall, subject to sub-section (2), be valued in accordance with such accounting rules as may be prescribed by the Commission.*

*(2) For the purposes of this Part, as at any date (the "balance date") to which a statement of assets and liabilities (however called or described) is made up:*

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(a) no asset of an insurer shall be valued at more than the amount, net of transaction costs incurred by the transferor, at which it could be transferred in an orderly market in a transaction between two willing but not anxious parties;

(b) no liability of an insurer, not being a policyholder liability, shall be valued at less than the amount, including transaction costs incurred by the transferor, at which it could be transferred in an orderly market in a transaction between two willing but not anxious parties;

(c) the liability for outstanding claims of a non-life insurer shall not be valued at less than the expected settlement cost, including settlement expenses, of all claims incurred by the insurer but not paid as at the balance date, whether or not those claims have been reported to the insurer as at that date, and including prudent but reasonable provision for adverse development in that expected settlement cost after balance date; and

(d) the liability for unexpired risk of a non-life insurer shall not be valued at less than the sum of the unearned premium reserve and the premium deficiency reserve, where:

(i) the unearned premium reserve is the unexpired portion of the premium which relates to business in force at the balance date; and

(ii) the premium deficiency reserve is the amount if any by which the expected settlement cost, including settlement expenses but after deduction of expected reinsurance recoveries, of claims expected to be incurred after the balance date in respect of policies in force at the balance date, exceeds the unearned premium reserve.

(3) The Commission may prescribe guidelines for the estimation of amounts set out in sub-section (2).

9. Section 46 of the Ordinance states 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.”

H/O



*“(2) Every insurer shall furnish, to the Commission, following the last day of December, March, June and September in each year, a statement of assets and liabilities in the form and prepared in accordance with the regulations prescribed under the preceding sub-section made up as of that date and such statement shall be certified by a principal officer of the insurer.*

*Provided that an actuarial valuation of policyholder liabilities as at the date to which such statement is made up is not required by virtue of this sub-section alone, and that the regulations prescribed under this sub-section shall provide for the determination of the value which is to be attributed to policyholder liabilities for the purposes of this sub-section.”*

*(3) In the case of an insurer registered to conduct life insurance business, such statement shall be furnished separately in respect of each statutory fund maintained by the life insurer and in respect of the shareholders’ fund.*

*(4) The statements referred to in the foregoing sub-sections shall be prepared in respect of all insurance business transacted by an insurer except that in the case of an insurer incorporated in a jurisdiction outside Pakistan, the statement shall be prepared in respect of the insurance business transacted by the insurer in Pakistan. ....”*

10. Section 51 of the Ordinance requires that:

*(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.*

*(2) The statement referred to in sub-section (2) of section 46 shall be furnished as a return to the Commission in such manner as may be prescribed by the Commission, but in any case including at least one printed copy, within six weeks from the date to which it is made up:*

*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 fifteen days.*

*(3) One printed copy of the returns shall be signed in the case of a company by the chairman and two directors and by the principal officer of the company and, if the company has a chief executive (by whatever name called), also by him, and in the case of the report and statement referred to in section 50 by the actuary who carried out the investigation.*

*Handwritten signature in blue ink.*



(4) Until 31 December 2000, this section shall apply as though the periods of four months and six weeks contained therein shall be substituted respectively by periods of six months and eight weeks.

11. Accordingly, a Show Cause Notice (SCN) ID/Enf/PakistanMutual/2019/1724 dated September 13, 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.

12. Upon non-receipt of the reply, it was decided to schedule a hearing on September 27, 2019 at the Head Office of the Commission. The hearing was attended by the Authorized Representative of the Respondents namely Mr. Hussain Tahir Zaidi who opted to appear for hearing via video link from Commission's Lahore Office. During the hearing, the Authorized Representative argued that the Company was inactive since 2016 and Respondents intend to wind up the Company voluntarily. He stated that as a mutual insurer, its policyholders were 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 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.

13. 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."*

*Handwritten signature/initials*



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14. The Company did not submit annual audited accounts and regulatory returns for the year ended December 31, 2018 in contravention of Section of 46 read with Section 51 of the Ordinance. In addition, the Company did not comply with Clauses lxxvi, lxxvii, lxxviii, lxxix and lxxx of the Code as it failed to submit the statement of compliance with the Code and annual statement of compliance with Section 11 and 12 of the Ordinance for the year ended December 31, 2018. Moreover, the Company did not submit the Valuation Report on the estimation of IBNR for the year ended December 31, 2018 to the Commission in violation of Circular 9 of 2016 (issued by the Commission under Section 34(3) of the Ordinance).

15. The Respondents did not present arguments on the violations mentioned in Para 14 above and admitted the default. However, they stated that the Company applied for voluntary revocation of its registration as an insurer vide letter dated October 16, 2019.

16. After carefully reviewing the facts and findings of the case as mentioned in the preceding paras, the default of Clause (lxxvi), (lxxvii), (lxxviii), (lxxviii), (lxxix) and (lxxx) of the Code and Section 34, Section 46, Section 51 of the Ordinance has been established. Therefore, fine can be imposed on the Respondents under Section 156 of the Ordinance.

17. 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."*

18. In exercise of the power conferred on me under Section 156 of the Ordinance, I, take a lenient view and do not impose fine on the Respondents due to the reason that the Company has filed an application for revocation of its registration of insurance business. However, the Company is hereby directed to submit annual audited accounts and regulatory returns for the year ended December 31, 2018, to the Commission within one month of the date of this Order.

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.

Hasnat Ahmad  
Director/HoD (Enforcement)

