



INSURANCE DIVISION
Islamabad

Before Shaukat Hussain, Commissioner (Insurance)

In the matter of

Adamjee Life Assurance Company Limited

Show Cause Notice No. and Issue Date: ID/Enf/AdamjeeLife/2018/17258
dated November 22, 2018

Date of Hearing: March 20, 2019

Attended By: Mr. Jalaluddin Meghani
CFO and Company Secretary
M/s. Adamjee Life Assurance Company Ltd.

Mr. Asif Mirza
Head of Compliance
M/s. Adamjee Life Assurance Company Ltd.

Date of Order: March 25, 2019

ORDER

Under Clause 5(i) of SRO 20(1)/2012, Regulation 6(3)(a), Regulation 8(1), Regulation 13 and Regulation 15 of the of the Anti-Money Laundering and Countering Financing of Terrorism Regulations, 2018 read with Section 156 of the Insurance Ordinance, 2000

.....

This Order shall dispose of the proceedings initiated against M/s. Adamjee Life Assurance Company Limited (the "Company"), its Chief Executive and Directors for alleged contravention of Clause 5(i) of SRO 20(1)/2012 (the "directive"), Regulation 6(3)(a), Regulation 8(1), Regulation 13 and Regulation 15 of the of the Anti-Money Laundering and Countering Financing of Terrorism Regulations, 2018 (the "2018 Regulations"). The Company and its Directors shall be collectively referred to as the "Respondents" hereinafter.

2. The Company is registered under the Insurance Ordinance, 2000 (the "Ordinance") to carry on life insurance business in Pakistan.

3. An onsite inspection of the Company was conducted to assess the compliance of the Company with the Anti-Money Laundering (AML) and Know-Your-Customer (KYC) requirements as given in the directive and the 2018 Regulations. The inspection team noted significant number of instances where the Company failed to comply with the relevant laws.

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4. In violation of clause 5(i) of the directive and Regulation 15(1) of the 2018 Regulations, certain standard policy documents, such as proposal form, need analysis form, which were required to be made part of the record from the perspective of the AML/CFT compliance and were significantly crucial to fill before issuance of the policies, were found missing from record of the following policies:

S. No.	Name	Policy Number	Date of Policy Issued	Premium Amount in Rs.
1			June 6, 2017	30 million
2			September 8, 2017	17 million
3			August 7, 2017	5 million
4			August 21, 2017	10 million
5			June 7, 2017	20 million
6			August 9, 2018	5 million

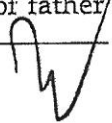
5. Besides copies of the policy, the files did not contain AML checklists in the following instances:

S. No.	Name	Policy Number	Date of Policy Issued	Premium Amount in Rs.
1			July 21, 2017	5 million
2			October 30, 2017	30 million
3			September 8, 2017	76 million
4			October 7, 2017	9.15 million

6. The Company failed to provide certain documents, like proposal form, need analysis form, AML checklist, etc. in a number of the policy files, and if the policy files contained the said documents, they were either not filled properly or the necessary columns were left blank altogether. A few of these cases are as follows:

S. No.	Name	Policy Number	Date of policy issued	Premium Amount in Rs.	Issues
1			January 10, 2018	10 million	AML form not signed by the AML official and certain columns of the Underwriting Sheet were left blank.
2			April 11, 2018	5 million	AML checklist was wrongly filled regarding premium amount.
3			July 21, 2017	5 million	Need Analysis Form was left blank and AML checklist was missing.

7. The Company uses World Compliance Database for identification of Politically Exposed Persons (PEPs), proscribed entities and individuals before issuance of insurance policies to customers. The inspection team on test basis searched the database by using a sample of proscribed persons and entities from the NACTA list. In a number of cases, the database returned a large number of individuals/entities (in some cases more than 80) matching the search criteria where each of the individuals/entities needed to be checked further for additional information, such as, matching of father/



name, location etc. The method adopted by the Company in this respect did not appear to be foolproof for identification as envisaged under Regulation 6(3)(a) and Regulation 8 of the 2018 Regulations.

8. The Company failed to comply with Clause 5(i) of the directive, Regulation 6(3)(a), Regulation 8(1), Regulation 13 and Regulation 15 of the 2018 Regulations by not maintaining the prescribed documents such as proposal form, need analysis form etc. In some instances, the documents/forms (where available) were left unfilled or incompletely filled. In addition, the method used by the Company to identify PEPs, proscribed entities and individuals was found to be unsatisfactory.

9. Clause 5(i) of the directive states that:

"Insurers are required to:

- i. at all times maintain and keep in place systems to monitor all business related transactions on regular basis;*
- ii. update customer/policy holder information record regularly; and*
- iii. maintain proper records of the customer/policy holder identifications and clearly specify in record, if any exception is made in fulfilling the Customer Due Diligence/Know Your Customer measures."*

10. Regulation 6(3)(a) of the 2018 Regulations states that:

(3) Customer due diligence (CDD) in broader term include-

(a) Identifying the customer or beneficial owner and verifying the customer's/beneficial owner's identity on the basis of documents, data or information obtained from customer and/or from reliable and independent sources;...

11. Regulation 8(i) of the 2018 Regulations states that:

8. Identification of Beneficiary for Life Insurance or Takaful Policies.-

(1) ... an insurer/ takaful operator shall conduct the following CDD measures for the beneficiary of life insurance or takaful and other insurance or takaful related policies as soon as beneficiary of such policy is identified or designated-

(a) for a beneficiary that is identified as specifically named natural person, legal person or legal arrangement, obtain the full name and identity, of such beneficiary.

12. Regulation 13 of the 2018 Regulations states that:

"13. Ongoing Monitoring.- (1) All business relations with customers shall be monitored on an ongoing basis to ensure that the transactions are consistent with the regulated person's knowledge of the customer, its business and risk profile and where appropriate, the sources of funds.

(2) Regulated person shall obtain information and examine, as far as possible the background and purpose of all complex and unusual transactions, which have no apparent economic or visible lawful purpose and the background and purpose of these transactions shall be inquired and findings shall be documented with a view of making this information available to the relevant competent authorities when required.

(3) Regulated person shall periodically review the adequacy of customer information obtained in respect of customers and beneficial owners and ensure that the information is kept up to date and relevant, by undertaking reviews of the existing records, particularly for higher risk categories of customers and the review period and procedures thereof should be defined by regulated person in their AML/CFT policies, as per risk based approach.

(4) In relation to sub-regulation (3), customers' profiles should be revised keeping in view the spirit of Know Your Customer/CDD and basis of revision shall be documented and customers may be consulted, if necessary.

(5) Where regulated person files an STR on reasonable grounds for suspicion that existing business relations with a customer are connected with ML/TF the regulated person may consider it appropriate to retain the customer-

(a) to substantiate and document the reasons for retaining the customer; and

(b) the customer's business relations with the regulated person shall be subject to proportionate risk mitigation measures, including enhanced ongoing monitoring.

(6) The regulated person should monitor their relationships with the entities and individuals mentioned in sub-regulation (5a) of regulation 6, on a continuous basis and ensure that no such relationship exists directly or indirectly, through ultimate control of an account and where any such relationship is found, the regulated person shall take immediate action as per law, including freezing the funds and assets of such proscribed entity/individual and reporting to the Commission."

13. Regulation 15 of the 2018 Regulations states that:

"(1) Regulated person shall maintain all necessary records on transactions... for a minimum period of five years from completion of the transaction:...

(2) The records shall be sufficient to permit reconstruction of individual transactions including the nature and date of the transaction, the type and amount of currency involved and the type and identifying number of any account involved in the transactions so as to provide, when necessary, evidence for prosecution of criminal activity and the transactions records may be maintained in paper or electronic form, provided it is admissible as evidence in a court of law.

(3) The records of identification data obtained through CDD process like copies of identification documents, account opening forms, Know Your Customer forms, verification documents, other documents and result of any analysis along with records

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of account files and business correspondence, shall be maintained for a minimum period of five years after termination of the business relationship.

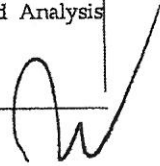
(4) Regulated person shall ensure, to timely make available, all CDD and transaction records to the Commission, FMU and law enforcement agencies whenever required."

14. Accordingly, a Show Cause Notice (SCN) No.ID/Enf/AdamjeeLife/2018/17258 dated November 22, 2018 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.

15. Thereafter, the Authorized Representative of the Respondents submitted the reply vide letter dated December 7, 2018, which is summarized below;

- i. It is imperative to mention here that the Company was not allowed adequate time, as provided under the Ordinance, for onsite inspection and, therefore, the Company could not arrange the records of prior years. Further, the inspection team did not discuss the findings with the Company. Had the findings been discussed, the majority of the issues raised in the Show Cause Notice (SCN) would have been resolved.
- ii. The Company contests the allegation that there were significant number of instances where the Company failed to comply with the relevant laws.
- iii. You will appreciate that the proposal form (the 'PF'), Need Analysis Form (the 'NAF') and other relevant documents were available for the six policies in question and copies could have been provided, had they been requested. In particular we make the following factual submissions in relation to the six instances of violation alleged by the Commission in the subject paragraph 9 of the SCN:

S. No.	Name	Policy Number	Date of Policy	Premium Amount	Factual Position
1			June 06, 2017	30 million	Need Analysis Form is attached. However, Manual Proposal Form is not applicable in cases where policies are issued on Point of sales, instead a document named Policy Insured Personal Details is attached which is signed by relevant Bank's officials as well.
2			September 08, 2017	17 million	Need Analysis Form and Policy Insured Personal Details are attached herewith.
3			August 07, 2017	5 million	Proposal Form is attached. However, for Need Analysis Form, Since Mrs. [redacted] was issued two different policies the same NAF which was attached to the second policy file was referred to for this policy.
4			August 21, 2017	10 million	Policy Insured Personal Details and Need Analysis form are attached herewith.



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5		June 07, 2017	20 million	Policy Insured Personal Details and Need Analysis form are attached herewith. (see Annexure 7)
6		August 09, 2018	5 million	Both proposal and Need Analysis Form are attached herewith.

- iv. Para 10 of the SCN alleges that in four instances, insurance policy files did not contain AML checklists. You will appreciate that the four instances referred to in the subject paragraph of the SCN relate to instances occurring in the year 2017 for which year the Commission had already issued warning letters to ensure development of the requisite protocols by the Company. As you will appreciate from the correspondence between the Commission and the Company during the period from June 5, 2017 to December 29, 2017, the Company had responded to the Commission's instructions positively and subsequently implemented AML/CFT protocols developed by it in compliance with the 2018 Regulations. Accordingly, it is submitted that the policies under question may not be subjected to the renewed efforts of the Commission to pursue non-compliance with the requirements of the 2018 Regulations, where the Commission in the year 2017 had already addressed the lapse in compliance by the Company.
- v. In the case of _____, holder of policy no. _____, 00067, against the assertion in the SCN that 'AML form not signed by the AML official and certain columns of the underwriting sheet were left blank, please note that the underwriting sheet was completely filled though the AML officer's signature was missing from the AML form developed by the Company, however, the Assistant Manager Compliance - AML provided feedback and approval through email which is attached in the relevant proposal file.
- vi. In the case of _____, holder of policy no. _____, 00176, against the assertion in the SCN that 'AML checklist was wrongly filled regarding premium amount', please note that this was a result of human error and the Company will endeavor to minimize such occurrences, however, the important point to be noted here is that the impact of such error is negligible in this case due to the policy being low risk because it was issued through the bancassurance channel.
- vii. In the case of _____, holder of policy no. _____, against the assertion in the SCN that the NAF was left blank and AML checklist was missing, please note that this is an inadvertent omission, however, the whole NAF was not left blank, certain sections were filled and the AML checklist was not attached as the policy was issued in year 2017, when AML procedures were not completely implemented.
- viii. The Company relies on the World Compliance Database (WCD) as its independent source and is satisfied that its reliance on the WCD, in absence of any alternate provided by the regulatory authority, is sufficient to counter the threat of money laundering and funding terrorism by Politically Exposed Persons (PEPs). The Company is confident that it has acquired the best screening software available in the local market as well as in the international market



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especially where the other available option is screening on Google which is more time consuming with no guarantee as to results.

- ix. It is pertinent to mention here that representative of the Company had attended awareness sessions conducted by the Commission relating to implementation of the 2018 Regulations and guidelines where the Company representatives have been advised by the facilitator / instructor of sessions that there is no other option the Company could adopt to identify PEPs and other proscribed entities and individuals. Further, facilitation by the Commission, as apex regulator of the insurance business market, through development and provision of a database, meeting the standards expected by the Commission from insurance companies for such screening and identification of PEPs and other proscribed entities and individuals will go a long way in serving the markets that the Commission is charged with beneficially regulating.
- x. It is reasserted that the Company has not violated any applicable law and therefore, the provisions of Section 156 of the Ordinance may not be attracted to penalize the legitimate business operations of the Company.
- xi. In light of the foregoing, we humbly and with utmost reverence submit that there has been no violation of the applicable law as alleged in the SCN and in fact the Company is a compliant and efficiently self-regulated entity, which continues to endeavor to comply with the spirit of the AML/CFT 2018 Regulations with the intent to counter the dual menace of money laundering and terrorism financing.

16. The Commission vide letter dated March 13, 2019 bearing no. ID/Enf/AdamjeeLife/2019/161 scheduled the hearing on March 20, 2019 at the Head Office of the Commission in Islamabad.

17. The hearing of March 20, 2019 was attended by the Authorized Representatives of the Respondents namely, Mr. Jalaluddin Meghani and Mr. Asif Mirza through the video link facility from Commission's Karachi Office.

18. During the hearing, the Authorized Representatives reiterated their comments submitted vide letter dated December 7, 2018. In addition, the Authorized Representatives stated that the Company had maintained record and the missing record as alleged by the inspection team had been part of the files inspected by the team. They maintained that the Commission had issued a warning to the Company in the past regarding non-compliance with KYC/AML requirements, where some of the cases as highlighted in the SCN had also been covered. The Authorized Representatives requested the Commission to take a lenient view in the matter.

19. The Respondents argued that the Company could not arrange the records of prior years as sufficient time was not allowed before commencement of the inspection. The Company however failed to provide the documents sought by the team during its inspection. Furthermore, all the relevant record should have been made part of the respective policy files/place rather than in scattered form in different files. The Respondent's claim that relevant record was maintained in other files is not tenable. If the missing documents were not made available to the inspection team then it can be

assumed that the documents did not exist. Had the policy files containing the respective documents been provided by the Company to the inspection team, it would not have raised those objections.

20. It is pertinent to mention here that the inspection team requested the Company vide email dated September 11, 2018 to provide KYC documents of insurance policies issued through bancassurance channel. The Company in its response vide email dated September 12, 2018 submitted that it would take minimum of 15 days to provide the requested information. However, Regulation 12(1)(b) of the 2018 Regulations states that:

"take steps to satisfy itself that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay;"

21. The Company's response suggests that it did not take steps to satisfy itself that documents relating to CDD requirements were made available from the third parties upon the request immediately, resulting in non-compliance with the aforementioned provisions as well.

22. Regarding four instances where checklist was not available, the Company argued that those cases pertained to the year 2017 and the Commission had already issued warning in the matter. Perusal of the Commission's letter dated June 5, 2017 shows that the details were sought in respect of the listed cases of which not all the cases were covered. Despite of issuance of the warning vide letter dated October 30, 2017, the inspection team found instances of non-compliances when the inspection was initiated on August 30, 2018. The Company should have updated its files as per Regulation 13 of the 2018 Regulations. For ease of reference, the relevant provisions of Regulation 13 of the 2018 Regulations is reproduced below:-

"Ongoing Monitoring.- (1) All business relations with customers shall be monitored on an ongoing basis to ensure that the transactions are consistent with the regulated person's knowledge of the customer, its business and risk profile and where appropriate, the sources of funds.

.....

(3) Regulated person shall periodically review the adequacy of customer information obtained in respect of customers and beneficial owners and ensure that the information is kept up to date and relevant, by undertaking reviews of the existing records, particularly for higher risk categories of customers and the review period and procedures thereof should be defined by regulated person in their AML/CFT policies, as per risk based approach.

(4) In relation to sub-regulation (3), customers' profiles should be revised keeping in view the spirit of Know Your Customer/CDD and basis of revision shall be documented and customers may be consulted, if necessary."

23. In certain cases where the Company failed to provide certain documents, the Company admitted that it was due to either human error or inadvertent omission.

24. The Company's policy does not contain guidance and specific procedures for identification of PEPs and proscribed persons such as maintenance of a database, search from internet for political associations etc., whereas Regulation 6(3)(a) and Regulation 8 of the 2018 Regulations have envisioned a foolproof and sure shot identification of the clients. Yet the Company carries out the identification process of the clients utilizing World Compliance database. The Company needs to resort to some sound identification database/website.

25. Clause 5(i)(iii) of the directive requires an insurer to maintain proper and adequate record of the policyholders for identification purpose and clearly specify the documents to be kept in the record and on this account, the Company fell short of observing this requirement of the Clause.

26. 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/or other legal references. I am of the view that violations of Clause 5(i) of the directive, Regulation 6(3)(a), Regulation 8(1), Regulation 13 and Regulation 15 of the of the 2018 Regulations, are clearly established, for which the Respondents may be penalized in terms of Section 156 of the Ordinance.

27. 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."

28. 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 Board of Directors of the Company. However, I impose a fine of Rs. 30,000/- (Rupees Thirty Thousand only) on the Company under the said provision of the Ordinance, due to the non-compliances, as mentioned hereinabove. Furthermore, the Respondents are hereby warned and directed to ensure full compliance with the Ordinance, rules, regulations and directives of the Commission in future.

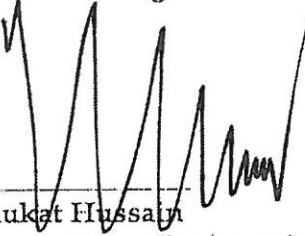
29. Hence, the Company is hereby directed to deposit the applicable fine in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with MCB Bank Limited within thirty (30) days from the date

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of this Order and furnish receipted vouchers issued in the name of the Commission for information and record.

30. 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.


Shaukat Hussain
Commissioner (Insurance)

