



INSURANCE DIVISION
Islamabad

Before Shaukat Hussain, Commissioner (Insurance)

In the matter of

EFU Life Assurance Limited

Show Cause Notice No. and Issue Date: ID/Enf/EFUlife/2018/17037
Dated November 2, 2018

Date of Hearing: March 20, 2019

Attended By:

1. Mr. Tanveer Ahmed Shaikh
Partner of Hyder Bhimjee & Co
2. Mr. Arshad Iqbal
M/s. EFU Life Assurance Limited
3. Mr. Zain Ibrahim
M/s. EFU Life Assurance Limited
4. Sajjad Hussain Khan
M/s. EFU Life Assurance Limited

Date of Order: March 25, 2019

ORDER

Under Clause 3(i) & 7(i)(v) of SRO 20(1)/2012 read with Section 156 of the Insurance Ordinance, 2000

.....

This Order shall dispose of the proceedings initiated against M/s. EFU Life Assurance Limited (the "Company"), its Chief Executive and Directors for alleged contravention of Clause 3(i) & 7(i)(v) of SRO 20(1)/2012 (the "directive"). 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 Anti-Money Laundering and Countering Financing of Terrorism Regulations, 2018 (the "2018 Regulations").
4. The inspection team noted significant number of instances where the Company did not obtain sufficient evidence regarding the source of income of the policyholders, who had paid significant amount of single premium to the Company, leading to a situation of mismatch of annual income to the investment made.

SECURITIES AND EXCHANGE
COMMISSION OF PAKISTAN

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5. A policyholder, [REDACTED] having CNIC: [REDACTED] was issued a policy bearing number [REDACTED] in September 2014. He was mentioned as businessman/office worker. His annual income was shown as Rs. 5 million. As per policy schedule, he paid Rs. 15 million as premium. On February 23, 2016, he paid additional amount of Rs. 86.64 million as Fund Acceleration Premium (FAP) and on March 14, 2016, he paid another amount of Rs. 5 million as FAP. However, no documents were found in the file regarding source of income, proof of business etc. (like certificate of registration, membership or letterhead of the business etc.). The policyholder made a surrender request to withdraw Rs. 14.487 million on March 29, 2017, on which the Company paid the said amount vide cheque dated April 6, 2017. Furthermore, through customer instruction letter, he requested surrender of the said policy on November 2, 2017. The Company paid an amount of Rs. 98.77 million, vide cheque number 1003346085, dated November 20, 2017. It was also observed from the copy of deposit slip dated November 21, 2017 that said policyholder was paid another amount of Rs. 83.29 million as surrender value of policy number 609976.

6. A policyholder namely [REDACTED] having CNIC number [REDACTED] was issued policy number [REDACTED] on September 11, 2014. As per policy schedule dated April 29, 2014, he paid Rs 1.7 million as premium. On February 23, 2016, the policyholder paid Rs. 60 million as FAP. However, no documents were obtained regarding source of income and business proof i.e. certificate of registration, membership or letterhead of the business etc. Later, the policyholder made a surrender request to withdraw Rs. 9.77 million on March 29, 2017. On November 2, 2017, the policyholder requested to surrender the entire policy citing personal reasons. The Company paid the surrender value to the policyholder vide cheque for Rs. 57.08 million along with letter dated November 29, 2017. As per the copy of deposit slip attached with letter dated November 29, 2017, it was also observed that the said policyholder was paid another amount of Rs. 48.33 million as surrender value of policy number 785324.

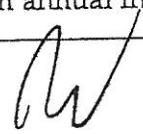
7. Another policyholder namely [REDACTED] was issued policy number [REDACTED] on January 1, 2015. The nominee of the policy was husband of the policyholder i.e. Mr. [REDACTED]. The policyholder paid premium of Rs. 60 million on May 1, 2015. As per the proposal form, the policyholder's occupation was housewife without any income. Further, no need analysis form was found in the policy file. Hence, sources of such huge amount of premium was not clear. A cheque amounting to Rs. 55.496 million was issued as surrender value under this policy on November 20, 2017.

8. Another policyholder namely [REDACTED] having CNIC number [REDACTED] was issued policy number [REDACTED] on September 1, 2017. The policyholder paid premium of Rs. 300,000 and further paid FAP of Rs. 99.7 million. As per need analysis form, occupation of the policyholder was disclosed as agriculture with annual income of Rs. 12 million. Value of the saving and assets declared by the policyholder was Rs. 200 million, without supporting documents, which could show source of the accumulation of the said wealth like sale deed or land / agricultural documents. Further, life stage of the policyholder was mentioned as retirement in the need analysis form of the policy. There was significant mismatch in annual income and premium paid by the policyholder.

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9. Another policyholder namely [redacted] having CNIC number [redacted] was issued the policy numbers 811851, 811853, 811854, 811857 and 811856 each of Rs. 10 million premium in August and September 2017. She was daughter of Mr. [redacted] policyholder mentioned in Para 8 above, as per details given in her CNIC. As per her need analysis form, her occupation was agriculture with annual income of Rs. 8 million and value of savings/assets of Rs. 250 million, without supporting documents to establish existence or source of the income/assets.
10. Another policyholder namely [redacted] having CNIC number [redacted] was issued a policy number 816793 on September 29, 2017 with Rs. 10 million premium. She was also daughter of [redacted] as per her nominee details. Need Analysis form attached with this policy showed her occupation as agriculture with annual income of Rs. 10 million and value of savings and assets as Rs. 300 million, without supporting documents. However, copy of her bank statement of Standard Chartered Bank account number [redacted] showed a balance of Rs. 55 million on August 29, 2017.
11. A takaful participant [redacted] having CNIC number [redacted] was issued policies numbering [redacted] of contribution of Rs. 5 million each. Need analysis form showed his occupation as businessman with annual income of Rs. 30 million while value of savings and assets disclosed by him was Rs. 15 million. However, no source of income, bank statement or any proof of business income was found in the policy file. An email dated December 9, 2014 was found whereby financial consultant of Dubai Islamic Bank (DIB) described the policyholder as director of [redacted], a renowned Islamic scholar who conducts lectures and programs on Islamic channels like [redacted] etc. He was a proprietor of [redacted] and his wife was owner of two lavish marriage lawns. He also maintained USD and special saving account with DIB. DIB filled 'Customer Profile Form for link account' also mentioned business and personal saving as clients' source of funds. However, no document related to his business / directorship / proprietorship / employment was found attached in the file provided by the Company.
12. A policyholder namely, [redacted] was issued policy number [redacted] on August 1, 2017 with total premium of Rs. 20 million (with gross premium of Rs. 50,000 and FAP Rs. 19.95 million). As per need analysis form provided by the Company, occupation of the policyholder was housewife without any income. However, value of savings and assets declared by the policyholder was Rs. 50 million, without attaching any documents to prove accumulation of the said wealth, if any. Furthermore, copy of CNIC was also not found in the file.
13. A policyholder namely, [redacted] was issued policy number [redacted] with premium amounting to Rs. 35 million. Value of saving and assets disclosed by her in the need analysis form was Rs. 80 million. As per need analysis form, her occupation was disclosed as housewife without any income, however, as per taxpayer online verification from FBR, her principal business activity was declared as "salary income". Proof of income such as copy of service card or letter from employer was not attached.
14. A policyholder namely, [redacted] was issued policy number 835758 with premium amounting to Rs. 25 million. As per need analysis form, his occupation was mentioned as property dealer / adviser and rent a car dealer with annual income [redacted]



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of Rs. 10 million. He declared Rs. 12 million as profit from business and business assets worth Rs. 30 million. Copy of his CNIC was not readable and proof of NADRA Verisys was not attached. Copy of declaration of sole proprietorship and account opening requisition on business letter head etc. were not attached.

15. The Company vide letter dated August 31, 2018 was advised to provide copy of Suspicious Transaction Reports (STRs), if any filed during the last one year. In response, the Company provided a 'NIL' statement.

16. In view of the above, it appeared that the Company failed to comply with Clause 3(i) of the directive by not obtaining the prescribed documents such as proof of business or employment, attested copy of service card, certificate or employment on letter head of employer, national tax number, copy of registration certificate for registered concerns, certificate of membership, declaration of sole proprietorship and account opening requisition on business letter head etc. The Company neither considered filing of STRs in respect of these cases as required by Clause 7(i)(v) of the directive nor provided any reason for deciding not to file STRs.

17. Clause 3(i) of the directive states that:

"Customer Due Diligence/Know Your Customer policy which shall inter alia include procedures for identifying customers/ policy holders, risk-profiling of the customers/policy holders, procedures for obtaining minimum information/ set of documents given in Annexure-I, from various types of policy holders for examination and verification at the time of issuance of the insurance policy...."

18. Annexure-I of the directive requires that:

"Customer/Policyholder Identification Procedure for Insurance Contracts

Type of Customer	Information	Documents Required
Individual Customer/ Policyholders	<ul style="list-style-type: none"> ▪ Name ▪ Father's Nam ▪ Address ▪ Telephone Number ▪ Source of Income with sufficient documentary proof ▪ Business/Employment Proof ▪ National Tax Number (NTN) 	<p>- Customer/policyholder identity verification through:</p> <ul style="list-style-type: none"> ▪ Attested copy of CNIC or Passport; ▪ residence /address verification through documentary proof that may include; lease agreement, rent receipt not older than three months, sale deed, last paid telephone bill not older than three months;"

19. Clause 7(i)(v) of the directive requires that:

".....

All insurer shall designate a 'Compliance Officer in their respective organizations who will primarily be responsible for the areas including, but not limited to:

....

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(V) Monitoring and timely reporting of the suspicious transactions to the Financial Monitoring Unit, Government of Pakistan;

....."

20. Regulation 6 (4) of the 2018 Regulations states that:

(4) Regulated person shall obtain such documents from different types of customers as provided in Annexure-I.

21. Annexure -I to the 2018 Regulations states that:

S No.	Type of Customer	Information/Documents to be Obtained
1.	Individuals	A photocopy of any one of the following valid identity documents; (i) Computerized National Identity Card (CNIC) issued by NADRA. (ii) National Identity Card for Overseas Pakistani (NICOP) issued by NADRA. (iii) Pakistan Origin Card (POC) issued by NADRA. (iv) Alien Registration Card (ARC) issued by National Aliens Registration Authority (NARA), Ministry of Interior (local currency account only). (v) Passport; having valid visa on it or any other proof of legal stay along with passport (foreign national individuals only).
2.	Sole proprietorship	(i) Photocopy of identity document as per Sr. No. 1 above of the proprietor. (ii) Copy of registration certificate for registered concerns. (iii) Copy of certificate or proof of membership of trade bodies etc., wherever applicable. (iv) Declaration of sole proprietorship on business letterhead. (v) Account opening requisition on business letter head. (vi) Registered/Business address...."

22. Regulations 14(4) and 14(5) of the 2018 Regulations state that:

....."

(4) The transactions, which are out of character, are inconsistent with the history, pattern, or normal operation of the account or are not commensurate with the level of income of a customer shall be viewed with suspicion, be properly investigated and referred to Compliance Officer for possible reporting to FMU under the AML Act.

(5) Regulated person should note that STRs, including attempted transactions, should be reported regardless of the amount of the transactions; and, the CTRs should be reported for the transactions of rupees two million and above as per requirements of AML, Act.

....."

23. Accordingly, a Show Cause Notice (SCN) No. ID/Enf/EFUlife/2018/17037 dated November 2, 2018 was issued to the Respondents, calling upon them to show

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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.

24. The Company, vide letter dated December 10, 2018, sought one week's extension to submit reply to the aforesaid Show Cause Notice. The request of the Company was acceded to and extension was granted until December 17, 2018.

25. Thereafter, the Respondents submitted their reply vide letter dated December 18, 2018, which is summarized below;

- i. In the past, due to the absence of requisite training and awareness, there may have been instances wherein certain matters, which would now instantaneously be detected by our software, would have been overlooked due to the system's inadequacy, but in the current predicament, we have made it our utmost priority to ensure that our system checks are persistently updated and running to help with money laundering and terror financing risk detection at all times.
- ii. In the cases cited in paragraph 10-12 of the show cause notice regarding the policies of [redacted] and his family, which were issued in 2014/15, we understand that at that time, the controls and procedures were not as robust as they are now. The Commission has previously sought clarification on similar issues vide its letter dated July 11, 2017. As per the said letter, paragraph 2 is reiterated below:

The Anti-Money Laundering Policy along with procedure provided by the Company on compliance of SRO 20(1)/2012 shows that it remains materially non-compliant with the SRO. It does not address areas of Customer Risk Profiling and Enhanced Due Diligence. Moreover, the documents are not approved by the Board of Directors. The underlying documents provided on the 'Compliance Report on the AML directive for Insurer' for the month of April 2017 show that effectively the Company did not perform the CDD/KYC. The information/details on Customer Risk Profiling, source of income with sufficient documentary proof, business/employment proof, NTN (if applicable) and verification of transaction profile was not available"

- iii. The Company, vide its dated July 25, 2017, responded to the above-mentioned letter of the Hon'ble Commission. In the response, the Company stated that it classified its high and low risk customers on the basis of sum at risk or sum assured as a standard practice across industry.
- iv. In view of the above, the Hon'ble Commission warned us through letter dated October 30, 2017 to ensure compliance with AML framework at an early date as stated in Paragraph 6 of the letter:

"This transpires that the Company is materially non-compliant with the SRO 20(1)/2012 dated January 11, 2012 and warned to ensure compliance with the AML framework at an early date. Compliance Report on SRO 20(1)/2012 dated Jan 11, 2012 should be provided to Commission by December 31, 2017"

- v. Consequently, in view of the above correspondence between the Hon'ble Commission and the Company, we would like to humbly reiterate that the issue

as addressed was not regarding non-compliance of AML framework, but with regards to the lack of understanding/awareness of the notion of risk-assessment. In the preceding years, the insurance sector as a whole, used to assess risk on the basis of sum assured. The Commission intimated the Company with regards to the same in the year 2017 and the same issue is being brought up again in the current predicament. In light of the AML/CFT Circular of the Commission No. 20(1)/2012, the entire life insurance industry had notified to the Hon'ble Commission through their letter dated November 23, 2017, which essentially raised concerns regarding the implementation of a risk-based approach, which at that time was a recent phenomenon, together with the lack of resources and awareness to implement the same. The insurance industry collectively raised apprehensions that adopting a risk-based approach, which although was being adopted worldwide, would be detrimental to a place like Pakistan, where the insurance penetration is as low as 0.6%. In order to adhere to the Hon'ble Commission's regulatory demands, we wrote to the Hon'ble Commission through letter dated December 29, 2017, stating the substantial steps that were being taken by the Company to ensure compliance with the AML framework.

- vi. Supplementary to the measures adopted and communicated to the Hon'ble Commission through above-mentioned letter dated December 29, 2017, the Company has taken substantial measures to mitigate risks by implementing new standards of procedures for the various departments i.e. New Business, Client Services and Technology. We would like to highlight some of the SOPs currently in place, which were adopted after the above stated correspondence with the Hon'ble Commission, clearly illustrate that the Company has taken active steps to combat money laundering and terror financing risks. The SOPs in place include:
- a) Risk Categorization
 - b) Risk Accumulation Mechanism
 - c) Ongoing Monitoring of Customers
 - d) Verification of Clients
 - e) Financial Alteration
- vii. The SOPs represent that the Company has revised its previous procedures to be in alliance with the AML framework. These steps have been undertaken in order to ensure that the new business and financial alterations in existing policies are in compliance with the regulatory standards as set by the Hon'ble Commission.
- viii. Further to the developments carried out by the Company since the warning issued by the Hon'ble Commission through letter dated October 30, 2017, we believe that the Company issued policies after applying due diligence. The policyholders ~~Yusuf Hussain Khan~~ and his family were actually issued in the period when the systems were being upgraded i.e. September 2017, which has already been discussed in detail in preceding paragraphs. However, the policyholders belong to a prominent and prosperous family, who are also personally known to our Management. Before issuance of the same, it was made sure that they are declared owners of their own agricultural lands and AK rice mills. Additionally, it was established via FBR substantiation that all three policy holders are registered tax payers since August 2003; henceforth it is safe to say

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that there was no ambiguity vis-a-vis their sources of income at the time the policies were issued.

- ix. Further, in the case of _____; he obtained Takaful Policies from the Company for a total regular plus ad-hoc contribution of Rs. 5 million each. It is submitted that the policyholder is a well-known Islamic scholar, i.e. public figure who regularly appears on televised transmissions. It is a known fact that he earns a significant sum via media appearances. Furthermore, there is evidential proof that the policyholder is taxpayer as is apparent in the shape of the online FBR verification.
- x. Likely; the policyholder _____, she initially obtained a policy in 2015 from the Company bearing No. 670918 for a single premium of Rs. 30 million, which was surrendered in parts from November 2015 to April 2016 for a total amount of Rs. 29.53 million. Thereafter, the policyholder obtained policy No. 803406 on August 1, 2017 against a single premium of Rs. 20 million. It is submitted that the policyholder reinvested the surrendered proceeds of her previous policy into the same product after the year of surrender, which eliminates any money laundering suspicion. Secondly, it is significant to mention that her spouse _____, who is a businessman and the owner to multiple fishery businesses, is similarly insured by the Company. In view of the preceding, the Company was aware of not only the policyholder, but also the policyholder's husband's income and source of income before the issuance of their respective policies.
- xi. That regarding policyholder _____, a housewife, who was issued policy number _____ on April 1, 2018 through Standard Chartered Bank Ltd. against a single premium of Rs. 35 million. It is humbly submitted that the occupation "housewife" mentioned in the proposal form was an error in the system, but professionally she is a doctor which is clearly mentioned in the payment advice for issuance of the policy. Furthermore, the same is substantiated by the fact that the policyholder declared her annual income to be Rs. 2 million in a separate instruction letter. Moreover, the FBR online verification also mentioned her to be a salaried person. Concurrently, it is informed that this was an investment-based policy with insurance coverage and at the time of issuance, the Company asked for source of the funds being invested.
- xii. In response, we were provided with the bank statement and IPS statement, which herewith proved that the policyholder had investments with Standard Chartered Bank Ltd. prior to the policy issuance, which she sold off at the time of obtaining the policy for a total amount above Rs. 40 million. As mentioned earlier in our reply, the bank being a financial institution has its own controls and KYC requirements, hence it was reasonable to take into account that the investments made with the Company came from the proceeds of her investment with the bank. In light of the above, since the said policyholder provided proof of her legitimate earning of Rs. 40 million, which shows that the same amount was used to pay Rs. 35 million in this policy.

- xiii. That policyholder [redacted] was issued policy number [redacted] on January 1, 2018 through JS Bank Ltd. against a single premium of Rs. 25 million. The policyholder declared his annual income to be Rs. 10 million in the proposal form and stated that he was a property advisor and rent a car dealer in the need analysis form. In the Financial Questionnaire Form (FQF), the policyholder declared his net profit for the previous year (2016) to be Rs. 12 million and his business net worth to be Rs. 30 million. As per the Notice, there was no declaration of sole proprietorship and account opening requisition on business letterhead. First and foremost, it is submitted that the case file contained an account opening requisition on the business letterhead made in favor of JS Bank Ltd., and also the taxpayer online verification from FBR with regards to the policyholder's business. Since the FBR verification proved the veracity of the policyholder's business, the account opening requisition in favour of JS Bank along with the CBC was sufficient in term of requirement to issue the policy. Furthermore, the CNIC of the policyholder was blackened during the scanning process, and CNIC Verisys is done online, which does not allow to copy the data; therefore, the same is made part of the policy files. It may not be out of place to mention here that verification of CNIC is too required for the Company's own process i.e for verification of signatures and the customers' details etc., therefore, the Company verifies majority of CNIC of the potential customers as well as of beneficiaries at the time of claim disbursement to make sure that the claim is paid to the legal heirs.
- xiv. In lieu of the Commission's representatives onsite visit, we informed the team that we have established new SOPs in order to cautiously monitor customers that might try to manipulate the systems. In instances, under the existing policyholders; where investments of certain threshold are made (i.e. PKR 5 million in a year, PKR 2 million in a single month or when a customer carries out 4 transactions) the system blocks those transactions and routes the same to underwriters in order to eliminate any perils of suspicious transactions. The underwriter calls for a signed alteration request form, source of fund, bank statement, financial questionnaire form, copy of cheque, tax returns, or conduct financial investigation and once the underwriter is satisfied that there is no illegal activity, the transaction is processed.
- xv. That in view of Regulation 14(4) and 14(5) of the 2018 Regulations, the Company's position in respect of suspicious transactions reports (STRs) is set out in the policy wherein the Company shall duly comply with the provisions of the AML Act, Rules and Regulations thereunder for reporting such transactions/ currency transactions in the context of money laundering or financial terrorism. We informed the team during the onsite visit that the Company is in the process of implementing appropriate internal policies, procedures and controls for meeting its obligations; however, there is still room for improvement and steady development especially in the area of STRs. The Company is actively working in order to cultivate a mechanism to file STRs especially in high risk cases. The Company ensures that transactions which are out of character or are inconsistent with the history, pattern or normal operation of the account including heavy deposits, withdrawals and transfers into other policies shall be viewed with suspicion, be properly investigated and referred to our Compliance Officer for possible reporting to FMU under the AML Act, 2010 and 2018 Regulations.

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xvi. As mentioned earlier, formerly there was definitely an interval/lag with regards to the implementation of these controls, but for the past years, we have provided AML training and taken all consequential steps to update our systems to be in compliance with the AML Act and 2018 Regulations. That had the team during onsite visit conducted/undertaken an audit of our systems, they would have found our systems to be as competent as one can expect in such a brief span of time. The Company wholly admits that their AML policy is far from being seamless, but the work that has been put onto it is in tandem with the Commission's regulations and the comprehensive guidelines, which are followed through the Company's branches in order to monitor ongoing transactions.

xvii. In view of the above stated facts, it is requested that the Hon'ble Commission may be pleased to withdraw the show cause notice under reply in the interests of justice.

26. The Commission vide letter dated February 19, 2019 scheduled the hearing on February 27, 2019, however, the Company vide letter dated February 22, 2019 requested to reschedule the hearing after March 1, 2019. The request of the Respondents was acceded to and the Commission vide letter dated March 13, 2019, bearing no. ID/Enf/EFUlife/2019/160 scheduled the hearing on March 20, 2019 at the head office of the Commission in Islamabad.

27. The hearing of March 20, 2019 was attended by the authorized representatives of the Respondents namely Mr. Zain Ibrahim, Mr. Tanveer Ahmed Shaikh, Mr. Arshad Iqbal, Mr. Shahid Abbas, and Mr. Sajjad Hussain through the video link from Commission's Karachi Office.

28. During the hearing, the Authorized Representatives reiterated their comments submitted vide letter dated December 18, 2018. In addition, the Authorized Representatives stated that the Company had started following risk based approach in the mid of 2018. They maintained that the Company had been issued a warning by the Commission on October 30, 2017 on KYC/AML whereby some of the cases highlighted in the SCN had also been covered. The Authorized Representatives requested the Commission to take lenient view in the matter.

29. The Company stated that in the past, due to the absence of requisite training and awareness, there might have been instances wherein certain matters, which would now instantaneously be detected by their software would have been overlooked due to the system's inadequacy. The directive was enforced since 2012 and Company failed to strictly comply with the requirement since then. Although the Company may have developed a system recently but the inspection team observed few instances of non-compliance. In case of Mr. [REDACTED] and his family, no documents were found in files regarding source of income, proof of business etc. The Company admitted that the policies were issued in 2014/15, and at that time, the controls and procedures were not as robust. The policies were categorized as low risk hence transactions did not appear

suspicious. The Company also admitted that there was issue of lack of understanding/awareness of the notion of risk-assessment.

30. In case of [REDACTED], again the inspection team did not find supporting documents, which could show source of the accumulation of the wealth like sale deed or land / agricultural documents. There was significant mismatch in annual income and premium paid by the policyholder. The Company argued that these policies were actually issued in the period when the systems were being upgraded

31. Similar non-compliances were observed in the cases of [REDACTED] and [REDACTED], where proof of income and accumulation of wealth were not obtained by the Company. It was stated that some of these people were already known to the Company, however, this does not imply that Company should not adhere to the requirements of the directive regarding KYC/AML. In case of [REDACTED], the Company did not seek her proof of employment, and instead relied only on the bank statement and IPS statement. This does not constitute as valid proof of income when Company clearly admitted the error that the occupation 'housewife' mentioned in the proposal form was an error in the system. Furthermore, the Company put the onus on the bank by stating that '*being a financial institution has its own controls and KYC requirements.....*'

32. Regarding STRs required to be filed under Regulation 14(4) and 14(5) of the 2018 Regulations, the Company stated that it had established new SOPs in order to cautiously monitor customers that might try to manipulate the systems. Furthermore, the Company informed the inspection team during the onsite visit that the Company was in the process of implementing appropriate internal policies, procedures and controls for meeting their obligations.

33. In this manner, the Company has failed to comply with Regulations 6(4) of the 2018 Regulations and Clause 3(i) of the directive by not obtaining the prescribed documents required under Annexure 1 to the 2018 Regulations and the SRO, such as proof of business or employment, attested copy of service card, certificate of employment on letter head of employer, national tax number, copy of registration certificate for registered concerns, certificate of membership, declaration of sole proprietorship and account opening requisition on business letter head etc. Few instances were observed, whereby the Company failed to comply with the directive even after issuance of the warning. The Company neither considered filing of suspicious transaction report (STRs) in respect of these cases as required by Regulations 14(4) and 14(5) of the 2018 Regulations nor provided any reasons for deciding not to file STRs

34. However, the Respondents apprised the Commission that there was an interval/lag with regards to the implementation of the controls of the KYC/AML, but for the past years, the Company had provided AML training and taken all consequential steps to update their systems to be in compliance with the AML Act and 2018 Regulations. The Company further stated that it had the required controls in place and continuously updating its systems to rigorously monitor the same.

35. 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 the violations of Clause 3(i) & 7(i)(v) of the directive, are clearly established, for which the Respondents may be penalized in terms of Section 156 of the Ordinance and/or direction to cease entering into new contracts of insurance may be issued.

36. 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."

37. 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. 50,000/- (Rupees Fifty Thousand) 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.

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

39. 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)

