



INSURANCE DIVISION
Islamabad

Before Tahir Mahmood, Commissioner (Insurance)

In the matter of

Pak Qatar Family Takaful Limited

Show Cause Notice No. and Issue Date: ID/Enf/PQFTL/2018/13250 dated
January 15, 2018

Date of Hearing: March 7, 2018

Attended By:

1. Mr. M. Nasir Ali Syed
Chief Executive Officer
Pak Qatar Family Takaful Limited
2. Mr. Farrukh V. Junaidy
Director
Pak Qatar Family Takaful Limited
3. Mr. M. Kamran Saleem
CFO & Company Secretary
Pak Qatar Family Takaful Limited
4. Mr. Waqas Ahmad
Chief Operating Officer
Pak Qatar Family Takaful Limited

Date of Order: March 21, 2018

ORDER

Under Section 93 read with Section 156 of the Insurance Ordinance, 2000

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This Order shall dispose of the proceedings initiated against M/s. Pak Qatar Family Takaful Limited (the "Company"), its Chief Executive and Directors for alleged contravention of Section 93 of the Insurance Ordinance, 2000 (the "Ordinance"). The Company and its Directors shall be collectively referred to as the "Respondents" hereinafter.

2. The Company is registered under the Ordinance to carry on family takaful business in Pakistan.



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3. The Commission had initiated thematic review of bancassurance business of insurers / takaful operators in order to check compliance of conduct of business with applicable regulatory provisions. Accordingly, the Company was advised to submit the statement of policies in respect of which notices under Section 93 of the Ordinance were issued to its policyholders.

4. The Company submitted detail of the notices vide letter dated October 10, 2017. While reviewing the information, it was observed that the Company sent notices to the policyholders with delay of more than 90 days in certain cases.

5. Accordingly, through email dated November 7, 2017, explanation was called from the Company for delayed issuance of notices along with copies of notices for sample cases issued under Section 93 of the Ordinance as per the following table:

S. No.	Policy number	Premium due date	Annual Premium amount	Inception date	Notice dates	Subsequent follow-up	Surrender value
1	4408340000133	01.04.2016	120,000	01.04.2010	18.05.2017		826,191
2	4408340000562	01.07.2015	15,000	01.04.2012	14.04.2017	14.05.2017	131,029
3	4408340000586	01.12.2016	56,400	01.05.2012	16.06.2017	16.07.2017	199,056
4	4408120003063	01.12.2015	60,000	01.12.2012	30.05.2016	08.10.2016	110,743
5	4408120003898	01.05.2016	150,000	01.05.2013	23.02.2017		253,942
6	4408670001160	01.01.2015	56,000	01.01.2012	14.09.2016	14.10.2016	96,014

6. The Company through email dated November 13, 2017 and December 6, 2017 submitted the notices issued against the aforementioned policies and stated that:

"In all cases notices are issued within 90 days as prescribed under the law, however once a customer request for reinstatement and the plan is reinstated, if the customer doesn't pay the contribution, notices are again issued to him/her under the same process. The dates provided in some cases are for notices issued after reinstatement."

7. While reviewing the notices to check their appropriateness and compliance with Section 93 of the Ordinance, it was observed that the notices sent to the policyholders were merely reminder notices informing the policyholders about due contribution amount and the status, the policy would acquire automatically in case of non-payment of contribution within due date. The notices contained only one option to the policyholders to request for a temporary contribution holiday for up to 12 months. However, the said option was not in compliance with Section 93 of the Ordinance, as the notices did not contain all the options prescribed under Section 93(4) of the Ordinance.

8. In view of the above, it appeared to the Commission that the Company failed to meet the mandatory requirements of Section 93 of the Ordinance.

9. Section 93 of the Ordinance states that:



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Non-forfeiture.- (1) A relevant policy is not liable to be forfeited only because of the non-payment of a premium (the "overdue premium") if -

(a) the policy has been in force for at least two years; and

(b) the surrender value of the policy exceeds the total of:

(i) the amount of the overdue premium; and

(ii) the total of any other amounts owed to the insurer under, or secured by, the policy.

(2) For the purposes of clause (b) of sub-section (1), the surrender value of the policy shall be calculated as at the day on which the overdue premium falls due and shall be calculated as though the premium has been paid.

(3) When the holder of a policy to which this section applies fails to pay a premium due under that policy, the insurer shall, before the expiry of three months from the date on which that premium in respect was payable but not paid, give notice to the policy holder informing him of the options available to him.

(4) Notwithstanding anything to the contrary in the policy, the options available to the policy holder under this section shall include without limitation two of the following, namely :-

(a) the policy shall be paid up in accordance with this Part;

(b) the surrender value of the policy shall be applied to the payment of the premium due until the surrender value is exhausted;

(c) the policy shall be surrendered in accordance with this Part; and

(d) the policy shall be surrendered, and the company shall issue to the policy holder a contract for term life insurance for a term to be specified by the policy holder and a sum insured determined on the basis of the surrender value of the policy surrendered less the amount of any debt owed to the company under, or secured by, the policy.

(5) Notwithstanding anything to the contrary in the policy, the action taken by the insurer with respect to the policy shall be -

(a) if a course of action not stated in the notice issued under sub-section (3) is agreed in writing between the insurer and the policy holder, after the policy holder has received the notice, that course of action;

(b) if the policy holder agrees in writing to an option contained in the notice issued under sub-section (3), that course of action;

(c) if the policy holder does not respond to the notice issued under sub-section (3), and after making reasonable efforts the insurer is unable to contact the policyholder:



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(i) if the policy holder has elected in writing, either at the time of taking the policy or at any time thereafter before the cessation of the payment of premium, that a course of action should be taken; that course of action; otherwise

(ii) if a course of action (not being the course of action set out in clause (b) of sub-section (4)) is stated in the policy, that course of action; otherwise

(iii) the course of action set out in clause (a) of subsection (4).

(6) No commission shall be payable to any person in respect of the following, namely:-

(a) the application of the surrender value to the payment of premiums in accordance with clause (b) of sub-section (4); and

(b) the issue of a contract of term insurance under clause (d) of sub-section (4).

10. Accordingly, a Show Cause Notice (SCN) No ID/Enf/PQFTL/2018/13250 dated January 15, 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.

11. The Company vide letter dated January 23, 2018 sought an extension to submit reply to the aforesaid Show Cause Notice, however, the Company was allowed extension until February 2, 2018.

12. Thereafter, the Respondents submitted their reply vide letter dated February 2, 2018, which is summarized hereunder:

- i. The reminder notices were served in time and accordingly as per our product structure, two options amongst the available four i.e. 93(4) (a) and 93(4)(b) were also made available to the policyholders. Further, the reminder letters were sent well within the prescribed time laid down in the applicable regulatory framework, the Company offered the following two options to its policyholders;
 - a. Under Section 93(4)(a) of the Ordinance, the participants are offered to convert their policies to paid up wherein the members are neither entitled for any takaful death benefit nor any takaful donation is charged. Hence the takaful benefits payable on death are limited to cash value of the participant.
 - b. The participants can also avail the option wherein the members will be entitled for takaful death benefit against charge of takaful donations. The said option, also called as contribution holiday, is already defined in our PMD, which provides option to the participants to take takaful coverage by applying the surrender/ cash value of the contract in place of regular contributions.



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- c. It is pertinent to mention that participants always had a third option available to them as per PMD i.e. withdrawal of cash value if they were unable to pay the contributions. Under this option, the participants can claim their surrender values without any takaful benefits. The same has been enshrined in Section 93(4)(c) of the Ordinance.
- ii. By giving our participants three options; we are going beyond our statutory duty so that our participants have enough options available to make an informed choice in case they are unable to pay their due contributions.
13. The Commission, vide its notice no. ID/Enf/PQFTL/2018/13882 dated March 2, 2018, scheduled the hearing for March 7, 2018 at the Company Registration Office Karachi.
14. The hearing was attended by the authorized representatives of the Respondents namely Mr. Nasir Ali Syed, Mr. Farrukh V. Junaidy, Mr. M. Kamran Saleem, and Mr. Waqas Ahmed representing all the Respondents before the Commission in the instant matter.
15. During the hearing, the Representatives apprised that all notices were issued within 90 days as prescribed under the law. The Representatives maintained that as per their product structure two options amongst the available four were made available to the policyholders in case they were unable to pay their due contributions. The Representatives also submitted a revised sample notice for consideration of the Commission. They further requested the Commission to take lenient view in the matter.
16. The Company sent 'reminders' instead of 'notices' as required under Section 93 (3) & (4) of the Ordinance. They were required to offer options to the policyholders in accordance with Section 93 of the Ordinance. However, the reminders sent to the policyholders by the Company were only intimation about conversion of their policies into paid up status if the due contribution were not paid in time. The other so called option i.e. request for contribution holiday does not in any way constitute as option provided under Section 93(4) of the Ordinance. The third option is not given in the notices sent to the policyholders as per the information received from the Company. Therefore, the response of the Company is not tenable.
17. The arguments, documents and evidences which have been submitted by the Respondents so far have been found to be evidencing the fact that the Company has failed to meet requirements of Section 93 of the Ordinance. However, during the hearing the Respondents have submitted a format of the revised/ amended notice for consideration of the Commission. Perusal of the sample notice indicates that the Company has incorporated the issues highlighted by the Commission.
18. 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 Section 93 are clearly established, for which the Respondents may



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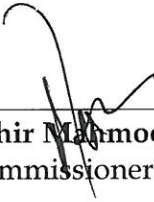
be penalized in terms of Section 156 of the Ordinance and/or direction to cease entering into new contracts of insurance may be issued.

19. 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.”

20. In exercise of the power conferred on me under Section 156 of the Ordinance read with S.R.O. 750(I)/2017 dated August 2, 2017, I, instead of imposing the fine as provided under the said provision, warn the Respondents that in case of similar non-compliance in future a stronger action against them will be taken.

21. 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.


Tahir Mahmood
Commissioner (Insurance)

