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INSURANCE DIVISION  
Islamabad

Before Hasnat Ahmad, Director (Enforcement)

*In the matter of*

Pakistan Mutual Insurance Company Limited

Show Cause Notice No. and Issue date ID/Enf/PakistanMutual/2019/1152  
Dated July 3, 2019

Date of Hearing: September 27, 2019

Attended By: Mr. Hussain Tahir Zaidi  
Advocate

Date of Order: November 4, 2019

**ORDER**

Under Section 61 read with Section 156 of the Insurance 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 Section 61 of the Insurance 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 The Supreme Court vide its Order dated January 25, 2016 dismissed the appeal of the Respondents as withdrawn and the Commission's Directive dated June 24, 2008 to cease the business of the Company was restored.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. The Commission, vide letter dated March 29, 2019 advised the Company to submit the information/documents by April 5, 2019 as under:-

".....

- i. Copy of Management Letter issued by external auditors and the management response thereto along with copy of the Cover Letter/ Board Letter issued by external auditors.
- ii. The Company is required to submit the Quarterly Statement of Assets and Liabilities for the year 2017 as per requirements of Section 46(2) of the Insurance Ordinance, 2000 (the "Ordinance") alongwith explanation for non-submission within specified time.

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- iii. *The Company is required to submit the Statement of Compliance as per requirement of Section 46(6) of Ordinance, alongwith explanation for non-submission within specified time.*
- iv. *The Company is required to submit the copy of Minutes of Annual General Meeting held for the year 2017 as per requirements of Section 54 of Ordinance, alongwith explanation for non-submission within specified time.*
- v. *The Company is required to submit the statement of compliance with Code, reviewed and certified by the statutory auditor as per requirement of Clause lxxvi and lxxvii of Code of Corporate Governance for Insurers 2016 (the "Code"), alongwith explanation for non-submission within specified time*
- vi. *The Company is required to submit the Secretarial Compliance Certificate, as per requirement of Clause (xxxiii) of the Code, alongwith explanation for non-submission within specified time.*
- vii. *The Accounts have been prepared by the Company on fair value basis in this regard kindly provide the fair value report/valuation report of land amounting to Rs. 0.850 million evidencing that the land has been also reported on fair value.*
- viii. *Detail of unpaid claims amounting to Rs. 1.847 million disclosed in note 10 to the Accounts including name of claimant, address, policy number, date of intimation of claim and date of settlement of claim.*
- ix. *The Section 46(6) of the Ordinance requires that the Accounts shall be signed, in the case of a company, by the chairman, if any, and two directors and the principal officer of the company. However, from the signatures its appears that Accounts is signed by the CEO and only one Director, explanation is required in this regard.*
- x. *The Clause (xi)(b) of the Code of Corporate Governance for Insurers, 2016 (the "Code") and Regulation 4 of the SECP (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the "Regulations") requires from the Insurer/Board to formulate policy to ensure compliance with Anti Money Laundering Laws. In this regard provide the copy of policy formed and adopted by the Board to ensure compliance with Anti Money Laundering Laws.  
....."*

4. The Company failed to submit the required information/documents even after reminder letters dated April 11, 2019 and April 23, 2019, issued to the Company.

5. Upon failure of the Company to furnish the requisite information, the Commission, vide notice dated May 8, 2019 directed the Company under Section 61 of the Ordinance, to provide the required information/documents within seven days of the date of notice, failing which necessary proceedings would be initiated against the Company.

6. The Company failed to respond to the directive under Section 61 of the Ordinance in respect of the aforesaid matter.

7. In view of the above, it appeared that the Company and the CEO/Directors violated the provision under Section 61 of the Ordinance.

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8. Section 61 of the Ordinance states that:

*“Power of Commission to call for information and access.- (1) The Commission may by notice in writing direct any insurer to supply the Commission, within such period as the notice may specify, with any information relating to its insurance business which the Commission may reasonably require.*

*(2) The Commission may direct that any information supplied under subsection (1) shall be certified by the principal officer of the insurer, by an independent auditor or in the case of a life insurer by the insurer’s appointed actuary.*

*(3) The Commission may by notice in writing direct the chief executive or principal officer of the insurer to discuss with the Commission any matter pertaining to the business or management of the insurer.*

*(4) The Commission may by notice in writing require the insurer to allow any officers of the Commission nominated for the purpose to observe, for such period as the Commission may specify, the manner in which the affairs of the insurer or of any of its offices or branches are being conducted.”*

9. Accordingly, a Show Cause Notice (SCN) ID/Enf/PakistanMutual/2019/1152 dated July 3, 2019 was issued to the Respondents, calling upon them to show cause as to why action under Section 156 of the Ordinance should not be taken for the aforementioned alleged contraventions of the law.

10. Thereafter, the Company vide letter dated July 15, 2019, responded as under:-

“ .....

1. Pakistan Mutual Insurance Company (Guarantee) Limited (hereinafter the “Company”), vide its resolution of the Board of Directors’ dated 25.8.2015 decided to wind up its operations and insurance business with effect from 01.10.2015. Pursuant to the said Resolution it was decided that the Company shall cease to carry on its business and shall also not enter into any new insurance contracts.

2. It was also decided that the Company shall initiate the legal process of winding up as provided under Section 144 of the Insurance Ordinance, 2000 read with all other enabling provisions of laws.

3. The legal process of the winding up of the Company is pending before the Securities and Exchange Commission of Pakistan (“SECP”).

4. For a period of over three and a half years the Company (a) has ceased to carry out its business; (b) has not entered into any new insurance contracts; (c) has paid off all its employees and currently not a single person is working as employee of the Company; (d) has closed down all email servers/connections and there is no employee to receive emails for and on behalf of the Company; (e) has shut down all its offices, telephone connections etc; and (f) is completely non-operational.

5. The Company only uses 12-B Kapurthala House (Old Anarkali), Lahore as its address for purpose of any correspondence.



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6. The Company vide its letter/reply dated 15.5.2019 informed the SECP that the Company is non-operational and also of all other aforesaid facts and circumstances.

*Submission on facts:*

1. It is humbly reiterated that the Company is not operational for a period of more than three and half years, consequently not a single person is working as employee of the Company; the Company has closed down all email servers/connections and there is no employee to receive emails for and on behalf of the Company; and the Company has shut down all its offices, telephone connections etc. therefore the Company has not received any of the communications mentioned in paragraph 3 sub-paragraphs (i) to (xiv) to the Show Cause Notice under reply. It is humbly submitted that any failure on part of the Company to respond to any of the communications/emails mentioned in paragraph 3 sub paragraphs (i) to (x) of the Show Cause Notice was not deliberate or intentional but was due to the fact that the Company had no knowledge of such communications/emails.
2. In reply to paragraph 4 of the Show Cause Notice, it is submitted that the Company vide its letter/reply dated 15.5.2019 informed the SECP that the Company was completely non-operational/non-functional hence that it did not receive any communications/emails from the SECP.
3. It is humbly submitted that so long as the Company was operational, it fully complied with the applicable/ relevant laws. Any failure on part of the Company to respond to any of the communications/emails mentioned in Show Cause Notice is primarily due to the fact that the Company had become completely non-operational and it was not aware of any such communications/emails.

*In light of the aforesaid, it is most respectfully submitted that the Company may kindly be granted a period of at least four (04) weeks for it to be able to take the requisite steps for winding the company in accordance with law.*

11. In order to proceed further, it was decided to provide hearing opportunity to the Respondents and consequently 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

12. 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 policyholder/member. In the absence of any member, the Company is finding it hard

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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."*

14. In terms of Section 61 of the Ordinance, the Commission may direct any insurer to supply the Commission, within such period as the notice may specify, with any information relating to its insurance business which the Commission may reasonably require.

15. The Show Cause Notice was based on the fact that the Company failed to provide the requisite information to the Commission regarding Annual Audited Accounts for the period ended December 31, 2017. All the information sought by the Commission pertained to the business of the insurer. As the Company failed to submit response to the Commission despite multiple reminders, therefore, the Commission issued direction dated May 8, 2019 to the Company under Section 61 of the Ordinance. The Company failed to comply with the said direction; therefore, Show Cause Notice (SCN) dated July 3, 2019 was issued to the Respondents. The Company only responded to the SCN vide letter dated July 15, 2019.

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

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17. 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 default of Section 61 of the Ordinance is established. Therefore, the fine as provided under Section 156 of the Ordinance can be imposed onto the Respondents i.e. the Company, its CEO and Directors.

18. 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."*

19. 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 its registration of insurance business. However, the Respondents are further warned that in case of similar non-compliance strict action against the Respondents will be taken in future.

20. 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.

**Hansat Ahmad**  
Director/HoD (Enforcement)

