



SECP
INSURANCE DIVISION
Islamabad

Before Tahir Mahmood, Commissioner (Insurance)

In the matter of

The Co-operative Insurance Society of Pakistan Limited

Show Cause Notice No. and Issue Date: ID/Enf/Cooperative/2018/14570
dated April 20, 2018

Date of Hearing: October 17, 2018

Attended By:

1. Mr. Fateh Khan Niazi
Chief Executive Officer
The Co-operative Insurance Society
of Pakistan Ltd.
2. Mr. M. Shoaib A. Waseem
Financial Advisor
The Co-operative Insurance Society
of Pakistan Ltd.
3. Mr. M. Hanif Khan Niazi
Legal Advisor

Date of Order: October 31, 2018

ORDER

Under Clause (Ixxvi), (Ixxvii), (Ixxviii), (Ixxix) and (Ixxx) of the Code of Corporate Governance for Insurers, 2016 read with Section 156 of the Insurance Ordinance, 2000

.....
This Order shall dispose of the proceedings initiated against M/s. The Co-operative Insurance Society of Pakistan Limited (the "Society"), its Chief Executive and Directors for alleged contravention of Clause (Ixxvi), (Ixxvii), (Ixxviii), (Ixxix) and (Ixxx) of the Code of Corporate Governance for Insurers, 2016 (the "Code"). The Society and its Directors shall be collectively referred to as the "Respondents" hereinafter.

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

3. During the review, it was observed that the Society did not submit the statement of compliance with the Code with Section 11 and 12 of the Ordinance for the year ended December 31, 2016, reviewed and certified by the statutory auditor as per requirement of Clause Ixxvi and Ixxvii of the Code.

4. The Society, vide letter dated March 27, 2018, was advised to provide explanation regarding the violations highlighted in Para 3 above. The Society, vide letter dated March 29, 2018, replied as under:-

SECURITIES AND EXCHANGE
COMMISSION OF PAKISTAN
Insurance Division, NIC Building,
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"Your intuition is invited to this office letter number G-2163/2017 dated March 24, 2017 where in it has been stated that compliance with the aforesaid Code is not possible by our society. We had also requested the commission vide letter dated G.1281/2016-S dated September 07, 2016 to exempt the Society from operation of certain provisions of the Code.

It is once again submitted that we, being a very small society having very low insurance business volumes, be exempted from the stringent rudiments of the Code of Corporate Governance for Insurance, 2016 being not possible for us.

The society vide letter number G-532/2017-S dated April 28, 2017 had submitted statement under section 46 (6)(a), (b) and (C) of the Insurance Ordinance 2001 and auditor's certificate regarding solvency margin.

It is hoped the above would suffice and your good self would compliance to the Code of Corporate Governance for Insurance, 2016 not possible for us."

5. As per record of the Commission, no exemption from any clause of the Code has been granted to the Society. Thus, it appeared to the Commission that the Society has failed to comply with the mandatory requirements of the Code.

6. Clauses (Ixxvi), (Ixxvii), (Ixxviii), (Ixxix) and (Ixxx) of the Code state 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.



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e. Clause (lxxx) 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.

f. Schedule of Applicability of Code

Clause	Brief Description of Clause	Effective date of Implementation
(lxxviii, lxxix and lxxx)	Annual Statement of Compliance with Section 11 & 12 and its review by Statutory Auditor	With all Financial Statements for period ended December 31, 2016 and onwards.
(lxxvi) and (lxxvii)	Compliance with the Code of Corporate Governance (Preparation & circulation of the reviewed Statement of Compliance with Best Practices of Corporate Governance along with annual report)	With all financial statements prepared for the period ended December 31, 2016 and onwards

7. Accordingly, a Show Cause Notice (SCN) No. ID/Enf/Cooperative/2018/14570 dated April 20, 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.

8. Thereafter, the Society vide letter dated April 30, 2018 submitted its response, which is reproduced hereunder:

"... ..

1. That our society is doing general insurance business since its establishment in year 1949.

2. That the society's insurance business volume is very low on account of non-enlistment on the panel of any scheduled bank. The net premium revenue for year 2016 was only Rs 5.3 million.

3. That the society is only enlisted on the panel of Punjab Provincial Cooperative Bank Limited which is the major shareholder of our society.

4. That owing to low business volume, fixed insurance cost is not completely absorbed resulting in underwriting losses.

5. That the Code of Corporate Governance for Insurers, 2016 requires to appoint certain qualified officials which can't be appointed by the society in present economic resources available with the society, as such appointments would deteriorate the financial position of the society which is definitely not the rationale of the Code.

6. That the cost of adoption of Code for society is too much higher than the benefits of the Code.



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7. *That the Code provides the option to apply to the Commission for exemption of certain provisions of the Code and the society duly applied to the Commission and requested to grant exemption to the society from the Code vide letter # G-1281 120 16-S dated 20-10-20 16 (copy enclosed) for which no response, whatsoever, was given by the Commission.*

It is therefore prayed that no adverse action be taken against the society as the society is not in a position to adopt the code in its present economic resources.

....."

9. The Commission, vide its notice no. ID/Enf/Cooperative/2018/15300 dated June 11, 2018, scheduled the hearing for June 21, 2018 at the Head Office of the Commission. However, the Society vide letter dated June 12, 2018 requested to reschedule the aforesaid hearing to another date. Accordingly, the hearing was reschedule on October 17, 2018 intimated to the Society vide letter dated October 4, 2018.

10. The hearing was attended by the Authorized Representatives namely Mr. Fateh Khan Niazi, Chief Executive Officer of the Society, Mr. Shoaib Ahmed Waseem, Financial Advisor of the Society and Mr. Muhammad Hanif Khan Niazi, legal advisor of the Society, representing all the Respondents before the Commission in the instant matter.

11. During the hearing the Authorized Representatives apprised the Commission that the Society is unable to comply with certain requirements of the Code due to the present economic resources available with the Society. The Representatives were clarified that Annual Statement of Compliance for the year ended December 31, 2016 could have been submitted with the qualification (if any).

12. Clause (lxxvi) of the Code requires that 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. Furthermore, the Clause (lxxvii) of the Code states that 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.

13. In terms of Clause (lxxviii) of the Code, the Society was required to file with the Commission, an annual certificate of compliance duly signed by the Chief Executive Officer and two directors confirming the status of compliance with the provisions of section 11 and section 12 of the Ordinance during the year. This was required to be submitted along with the financial statements and regulatory returns as required under section 46(1) of the Ordinance. However, the Company failed to submit annual certificate of compliance. Clause (lxxix) of the Code also requires that 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.



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14. The Society did not submit the annual certificate of compliance as it believes that due to certain cumbersome requirements, the Society is not in a position to fully adopt the code. However, Clause (lxxx) of the Code provides the remedy for the similar situation, which states that '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'. The Society could have submitted annual certificate of compliance with the declaration and explanation for non-compliances in the notes. It is pertinent to mention here that compliance with the Code, Annual Statement of Compliance with Section 11 & 12 and its review by Statutory Auditor was effective w.e.f. December 31, 2016 and onwards.

15. 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 (Ixxvi), (Ixxvii), (Ixxviii), (Ixxix) and (lxxx) of the Code are clearly established, for which the Respondents may be penalized in terms of Section 156 of the Ordinance.

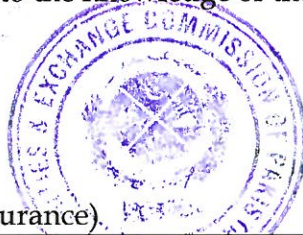
16. Section 156 of the Ordinance provides that:

"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."

17. In exercise of the power conferred on me under Section 156 of the Ordinance I, instead of imposing a fine take a lenient view warn the Respondents to ensure full compliance with the Ordinance, rules, regulations and directives of the Commission in future. The Society is further directed to submit annual certificate of compliance within two weeks of this Order.

18. 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).



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