



बीमा विनियामक और विकास प्राधिकरण
**INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY**

Ref.No: IRDA/I&C/ORD/ONS/275/12/2014

16th December, 2014

Order in the matter of M/s Anand Rathi Insurance Brokers Limited

Based on reply to the Show Cause Notice dated 11th September, 2014 and submissions made during Personal Hearing chaired by Shri M. Ramaprasad, Member (Non-Life), on 19th November, 2014, in the office of Insurance Regulatory and Development Authority, 3rd Floor, Parishrama Bhavan, Basheerbagh, Hyderabad.

The Insurance Regulatory and Development Authority (hereinafter referred to as "the Authority") carried out an onsite inspection of M/s Anand Rathi Insurance Brokers Ltd (hereinafter referred to as "the Broker") during 8th to 10th January, 2014. A copy of the Inspection report was forwarded to the Broker on 17th February, 2014, seeking their comments on the issues raised in the Inspection report. The Broker submitted their response vide letter dated 27th February, 2014. Upon examining the submissions made by the Broker vide letter dated 27th February, 2014, the Authority issued a Show Cause Notice on 22nd August, 2014 which was responded to by the Broker vide their letter dated 11th September, 2014. As requested by the Broker, a personal hearing was given to the Broker on 19th November, 2014 which was attended on behalf of the Broker by Mr. S.V.Saklikar, Associate Director, Ms. Supriya Rathi, Director and Principal Officer and Mr. Vinod Kaleyar, Vice President. On behalf of the Authority, Dr. (Ms.) Mamta Suri, Sr.JD (Inspection & Compliance), Mr. Randip Singh Jagpal, Sr. JD (Intermediaries) and Mr. Sanjay Mohan Sharma, AD (I&C) were present during the personal hearing. The submissions made by the Broker in their written reply to the Show Cause Notice as also those made during the course of personal hearing have been considered by the Authority. On that basis, the conclusions arrived at by the Authority are as follows:

Charge – 1

The written mandate is not obtained by the Broker from the life insurance prospects. Failure to obtain the written mandate is violation of Clause 2(h) of Schedule III of Regulation 21 of IRDA (Insurance Brokers) Regulations, 2002.

Broker's response:

They have started obtaining the written mandates from the individual clients.

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Decision:

The Broker has submitted the copies of mandates obtained from the individual clients in respect of Life Insurance Business.

Taking note of the Broker's submissions, the charge is not pressed. However, the Broker's attention is drawn to the provisions of Clause 2(h) of Schedule III which clearly stipulates collection of written mandate from the client. Hence failure to collect mandate is certainly a violation of the above provision. Further, the Broker who are in the broking business for the last more than 10 years must not violate this provision. In this background, the Broker is advised to strictly comply with the said provision and any future violation of the said provision will be viewed very seriously.

Charge – 2

The broker had shown to the inspection officials the complaint register for recording and monitoring complaints. But the register was not comprehensive as the information was just copied from the intimation provided by the insurer. There was no proper system for recording complaints received directly by the Broker and for sending acknowledgements in a timely manner. The letters sent by the Broker in response to complaints from clients do not contain advices as to what the clients may do in case they were not satisfied with the response of the Broker.

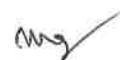
Failure to handle the complaints in a systematic manner is violation of clause 8 of Schedule III under Regulation 21 of IRDA (Insurance Brokers) Regulations, 2002.

Broker's response:

They have initiated the process of systematic maintenance of complaint register.

Decision

The Broker has submitted the extracts of complaint register, containing separate columns for Insurance Company's observations and the Broker's findings. Taking note of the Broker's submission, the charge is not pressed. It is not acceptable that the Broker who are in business for more than 10 years have not put in place a proper system to record and monitor complaints directly received by them. In view of this, the Broker is advised to strictly ensure compliance with the stipulations in the regulations in regard to handling of complaints. Any non-compliance hereafter on this front will be viewed seriously for penal action.



Charge –3

On examination of Service tax returns (ST 3) filed by the Broker, it was observed that the Broker is in practice of providing business support services. The supporting documents relating to above services indicate that the said services were rendered to the Broker's group company M/s Anand Rathi Share and Stock Brokers Limited.

Examination of invoices raised by the insurance broker reveals that in one instance in 2012-13 a cross sell income (as referral commission) was received by the Broker from their group company in lieu of the cross sell efforts of their insurance marketing employees.

Providing business support services is a violation of Regulation 10(1) (iv) of IRDA (Insurance Brokers) Regulations, 2002 which prohibits the Broker from involving themselves in any other activity except broking. Further, the cross sell activity of the Broker is violation of Clauses 2(d) and 2 (e) of the code of conduct under Regulation 21 of IRDA (Insurance Brokers) Regulations, 2002, which mandate the Broker to maintain complete confidentiality of the documents and information in their possession

Broker's response:

No database of their clients was shared with any other entity. As a result of the cross sell generated by Broker's employees, their sister concern Anand Rathi Share and Stock Brokers had rewarded the efforts of the Broker's employees and payment towards that was made to the Broker in 2012-13.

Decision:

The reply of the Broker that they did not share the database of their clients with any other entity is not acceptable. The action of the Broker is a clear violation of Regulation 10 (1) (iv) read with Clause 2(d) and 2 (e) of the Code of Conduct under Regulation 21 of IRDA (Insurance Brokers) Regulations, 2002.

In this connection, Broker's attention is drawn to Authority's letter No.IRDA/DB-094/04 dated 11th November, 2009 levying a penalty of Rs.2 lakh for violation of Regulation 2(d) and 2(e) of the Code of Conduct under Regulation 21. The Authority is of the view that the same provisions have been violated again. Therefore, the Authority hereby levies a penalty of Rs.5 lakh (Rupees Five Lakh only) for the said violation. The Broker is hereby warned that any future violation of these provisions will attract furthermore serious regulatory action.

Charge – 4

On examination of Payroll statement it was observed that the expenses towards employees of Group Company were booked under broker's account, as is evident from the fact that the payroll list contains names of employees who are dealers of the stock broking arm of the group.

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The action of the Broker is in violation of Regulation 9(3) of IRDA (Insurance Brokers) Regulations, 2002 read with Section 42 (D) (5) (f) of Insurance Act 1938 which prohibit anyone not fulfilling the requirements specified in the Regulations from soliciting insurance business on behalf of the Broker.

Broker's response:

All employees of the Broker are full time employees. However, in the HR software which is common across all subsidiaries of their holding company, based on the grade of the employee the designation "Dealer" may have erroneously been mentioned. This has been since rectified and the broker will take care to ensure that this lapse does not recur. It may be noted that these employees are IRDA Broker trained as well and are engaging in insurance business.

Decision:

The Broker submitted the rectified pay roll for the period of 2012-13, 2013-14 and 2014-15 (till October 2014) along with a copy of required qualification certificate of the concerned employees. Taking note of the submission, the charge is not pressed. The Broker, however, is advised to exercise caution in future and ensure that only their own employees solicit business on behalf of the broker.

Charge - 5

On examination of Bank statements of the Insurance Broker it was observed that there is frequent transfer of cash from insurance broker to their holding company through net banking. There was no supporting basis for such transfer in the books of accounts.

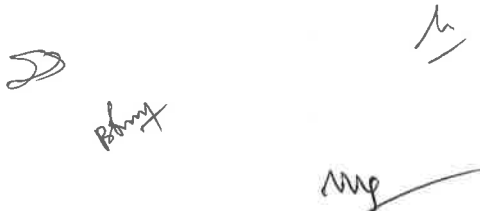
The action of the Broker attracts provisions of Regulation 34(2) of IRDA (Insurance Brokers) Regulations, 2002.

Broker's response:

The Broker has submitted a copy of Inter Corporate Deposit agreement with parent company i.e. Anand Rathi Financial Services Ltd. effective from April 1, 2014.

Decision:


The Inter Corporate Deposit Agreement submitted by the Broker has been gone through. The contents of the said agreement indicate that the arrangement between the Broker and their parent company is only for mutual lending and borrowing money. Such types of activities of the Broker have the potential to attract action under Regulation 34(2) of IRDA (Insurance Brokers) Regulations 2002. Further, Regulation 10(1)(iv) of the IRDA (Insurance Brokers) Regulations 2002 clearly prescribes that the broker must engage themselves exclusively in insurance broking activities. Keeping the above regulatory provisions in view, the Broker is directed to stop forthwith the transfer

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of funds between the Broker and their parent company viz. Anand Rathi Financial Services. Further the Broker is directed to ensure strict compliance of the above said regulations.

In conclusion, the penalty amount of Rs.5 lakh as mentioned above shall be paid through Demand Draft drawn in favour of Insurance Regulatory and Development Authority payable at Hyderabad within 15 days from the receipt of this letter. The Demand Draft is required to be forwarded to Dr. (Ms.) Mamta Suri, Senior Joint Director (Inspection & Compliance).

The Broker is required to ensure compliance with the above directions under intimation to the Authority.


(M. Ramaprasad)
Member (Non-Life)



