



SECP  
INSURANCE DIVISION  
Islamabad

Before Hasnat Ahmad, Director (Insurance)

*In the matter of*

M/s. Premier Insurance Limited

Show Cause Notice Issue Date: September 09, 2014

Date of Hearing: March 19, 2015

Attended By:

1. Mr. Iftikhar Gadar  
Chief Financial Officer  
M/s. Premier Insurance Limited;
2. Mr. M. K. Baig  
Senior General Manager  
M/s. Premier Insurance Limited.

Date of Order: April 2, 2015

ORDER

Under Section 166 read with Section 156 of the Insurance Ordinance, 2000.

.....

This Order shall dispose of the proceedings initiated against the chief executive and directors of M/s. Premier Insurance Limited (the "Company") for alleged non-compliance with Section 166 read with Section 156 of the Insurance Ordinance, 2000 (the "Ordinance"). The chief executive and directors of the Company shall be referred to as the "Respondents" hereinafter.

A. Background

2. An onsite inspection of M/s. Premier Insurance Limited (the "Company") was conducted on the order dated November 27, 2012, under Section 59A of the Ordinance, during which, the inspection team observed that the Company underwrote risks related to assets that were owned by the public sector entities in violation of Section 166 of the Ordinance.

3. The following instances were observed where the public property was insured by the Company:







# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Insurance Division

Continuation Sheet 1

| Name of Agent                                      | Policy number(s)           | Policy Issue Date | Class of Business           | Gross Premium (Rs.) |
|----------------------------------------------------|----------------------------|-------------------|-----------------------------|---------------------|
| Virtual University of Pakistan                     | 2012/08/LHRTPCDN09675      | 19/10/2012        | Private Car (Comprehensive) | 562098              |
| The Institute of Chartered Accountants Of Pakistan | 2012/05/HOFFNDN05230       | 12/07/2012        | For Normal Policy           | 247980              |
| The Institute of Chartered Accountants Of Pakistan | 2012/06/HOTMCDN17621       | 18/07/2012        | Motor Cycle (Comprehensive) | 72748               |
| Virtual University of Pakistan                     | 2012/12/LHRTPCDN09892      | 19/12/2012        | Private Car (Comprehensive) | 31872               |
| The Institute of Chartered Accountants Of Pakistan | 2011/201/15/E024/D/P/02302 | 31/07/2012        | Electronic Equipment        | 22161               |
| The Institute of Chartered Accountants Of Pakistan | 2012/06/HOMILD16002        | 26/06/2012        | Marine Cargo (inland)       | 1005                |
| The Institute of Chartered Accountants Of Pakistan | 2012/08/HOMILD16593        | 09/08/2012        | Marine Cargo (inland)       | 3213                |
| The Institute of Chartered Accountants Of Pakistan | 2012/09/HOMILD17140        | 27/09/2012        | Marine Cargo (inland)       | 3213                |
| The Institute of Chartered Accountants Of Pakistan | 2012/07/HOTMCDP19921       | 11/09/2012        | Motor Cycle (Comprehensive) | 3126                |
| The Institute of Chartered Accountants Of Pakistan | 2012/07/HOTMCDP19921       | 22/11/2012        | Motor Cycle (Comprehensive) | 2415                |
| The Institute of Chartered Accountants Of Pakistan | 2012/07/HOTMCDP19921       | 25/09/2012        | Motor Cycle (Comprehensive) | 2233                |
| The Institute of Chartered Accountants Of Pakistan | 2012/07/HOTMCDP19921       | 27/08/2012        | Motor Cycle (Comprehensive) | 2195                |
| The Institute of Chartered Accountants Of Pakistan | 2012/07/HOTMCDP19921       | 03/11/2012        | Motor Cycle (Comprehensive) | 2012                |
| The Institute of Chartered Accountants Of Pakistan | 2012/07/HOTMCDP19921       | 18/07/2012        | Motor Cycle (Comprehensive) | 1709                |
| The Institute of Chartered Accountants Of Pakistan | 2011/201/15/E024/D/P/02302 | 05/05/2012        | Electronic Equipment        | 1607                |
| The Institute of Chartered Accountants Of Pakistan | 2012/07/HOTMCDP19921       | 30/11/2012        | Motor Cycle (Comprehensive) | 1535                |
| The Institute of Chartered Accountants Of Pakistan | 2011/201/13/A03/D/P/14753  | 19/03/2012        | Motor Cycle (Comprehensive) | 1430                |
| The Institute of Chartered Accountants Of Pakistan | 2011/201/13/A03/D/P/14753  | 19/03/2012        | Motor Cycle (Comprehensive) | 1425                |
| The Institute of Chartered Accountants Of Pakistan | 2011/201/13/A03/D/P/14753  | 19/03/2012        | Motor Cycle (Comprehensive) | 1265                |
| The Institute of Chartered Accountants Of Pakistan | 2011/201/13/A03/D/P/14753  | 21/04/2012        | Motor Cycle (Comprehensive) | 815                 |
| The Institute of Chartered Accountants Of Pakistan | 2011/201/13/A03/D/P/14753  | 08/05/2012        | Motor Cycle (Comprehensive) | 718                 |
| The Institute of Chartered Accountants Of Pakistan | 2011/201/13/A03/D/P/14753  | 13/04/2012        | Motor Cycle (Comprehensive) | 539                 |
| The Institute of Chartered Accountants Of Pakistan | 2011/201/15/E024/D/P/02302 | 12/06/2012        | Electronic Equipment        | 200                 |
| The Institute of Chartered Accountants Of Pakistan | 2011/201/13/A03/D/P/14753  | 21/06/2012        | Motor Cycle (Comprehensive) | 190                 |

4. In view of the violations highlighted in the preceding paras, the Commission initiated penal action(s) by issuance of a Show Cause Notice on October 22, 2014 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 for non-compliance with Section 166 of the Ordinance.







5. In response to the said Show Cause Notice, the Respondents, vide their letter dated September 22, 2014, stated that:

*"...we at Premier Insurance Limited concur with your view of strict adherence to the statute and its provision in letter and spirit. However we inadvertently booked a public sector client by extract similarities with ICAP that made us non-compliant to Section 166 of the Insurance Ordinance 2000.*

*Although ICAP is referred to as public sector organization in the subject show cause notice but ICAP itself claims to be an autonomous body registered under Chartered Accountants Ordinance 1961. When booking business for ICAP and on recent re-confirmation on its renewal ICAP has stated that they remain an autonomous body and are not categorized as public centre although four government nominees are on their council but there are only governed by their ordinance. ICAP on its website has categorically stated that before the President of Pakistan assent in 1961 the Pakistan Institute of Accountants was formed with the idea to be an independent body and to date it operates under the same idea and is not to be classified as Public Sector Organization.*

*Inadvertently we carried the same view for the Virtual University of Pakistan in which we find ourselves to be incorrect for the oversight on the matter and are taking steps to rectify the matter by communicating the withdrawal of our services on expiry of the current insurance periods they have been covered for. The services would only be renewed if they provide us with the NOC for taking services from another insurer other than the National Insurance Corporation.*

*During the onsite inspection we had debriefed the inspection team that the onus should lie with insured instead of the Insurer as it is the insured that reaps benefit out of the services. However it is our opinion that the Company would like to raise and does not in any want to deflect from the fact that we inadvertently violated section 166 by booking Virtual University of Pakistan.*

*Keeping in view our steps to close business with Virtual University and the fact that ICAP is not covered under the public sector. Hope the above explanation satisfies the queries raised in the show cause notice. We would request an opportunity for our Senior General Manager and I to appear in person and present our case in front of you allowing a better understanding of our actions resulting in satisfaction of the queries raised in the show case notice."*

6. In the above quoted response of the Respondents, it appeared that the Respondents considered the Institute of Chartered Accountants of Pakistan (ICAP) as a non-public sector organization / statutory corporation and that it did not fall within the scope of Section 166 of the Ordinance. However, the Respondents admitted that the Virtual University (VU) was a public sector organization, and that the Company violated the provisions of Section 166 of the Ordinance by issuing a policy to the VU.







7. The Respondents further stated that the insured should have been penalized for contravening the provisions of Section 166 of the Ordinance, as it is always the insured that reaps benefit out of the services being provided by an insurer.

**B. Hearings**

8. The Respondents requested for the hearing to defend their stance through the abovementioned response, and therefore, the Commission, vide its notice no. ID/Enf/Premier/2014/21089 dated October 21, 2014, scheduled the hearing for November 18, 2014 at 3:00 p.m. The said hearing was adjourned on the request of the Respondents and therefore was rescheduled for December 4, 2014 at 12:00 noon through notice no. ID/Enf/Premier/2014/21256 dated November 11, 2014. The hearing was attended by Mr. Iftikhar Gadar, Chief Financial Officer and Mr. M. K. Baig, Senior General Manager of the Company.

9. The Respondents gave their arguments to defend the proceedings of the Show Cause Notice during the hearing of December 4, 2014. However, the matter could not be decided on the basis of the arguments and submissions made by the Respondents. Therefore, another opportunity was provided to the Respondents, vide notice no. ID/Enf/Premier/2015/396 dated February 26, 2015, through which hearing was scheduled for March 19, 2015 at 11:00 a.m. through video link connecting the Head Office with the Karachi Office of the Commission. The hearing was attended by Mr. Iftikhar Gadar, Chief Financial Officer and Mr. M. K. Baig, Senior General Manager of the Company, for and on behalf of the Respondents.

10. Brief proceedings of the hearing of March 19, 2015 were as follows:

- a. Prior to the start of the hearing proceedings, the Respondents handed over the General Power of Attorneys in favor of Mr. Iftikhar Gadar, Chief Financial Officer and Mr. Mirza Khadim Baig, Senior General Manager, to the Commission;
- b. The Respondents were asked to present their stance, on which the Respondents stated that the Government of Pakistan published classification of all public sector entities i.e. the ministries and their respective associated departments / corporations in which ICAP was not listed as a public sector entity;
- c. The Respondents further stated that due to the reason that the Government itself did not classify ICAP as a public sector entity; therefore the Company treated it as an autonomous body. The Respondents further mentioned that ICAP itself claims to be an autonomous body registered under Chartered Accountants Ordinance, 1961 and that it does not fall under the category of a public sector entity;







- d. The Respondents pointed out that on renewal of the underlying policy, the ICAP reconfirmed its status as an autonomous body despite appointment of four Government nominees on its council ;
- e. The Respondents further stated that, inadvertently, the same view was carried for Virtual University of Pakistan. However, the Company intends to withdraw its services on the expiry of the current insurance policy treating it as public sector entity;
- f. Lastly, the Respondents requested to take lenient view as the Company did not violate the provisions of the Ordinance willfully.

**C. Issues**

11. The Respondents of the instant Show Cause Notice were required to ensure compliance with the provisions of Section 166 of the Ordinance, which state that:-

*"Insurance of public property.- (1) This section applies to direct nonlife insurance of public property.*

*(2) In this section -*

*(a) "Company" means the National Insurance Company Limited;*

*(b) "public property" means:*

*(i) any property, movable or immovable, which belongs to, or the safety of which is the legal responsibility of, -*

*(A) the Federal Government, a Provincial Government or a local authority or statutory corporation; or*

*(B) any company, firm, undertaking, institution, organisation or other establishment which is managed or controlled by the Federal or a Provincial Government or local authority or statutory corporation or in which such Government, by itself or jointly with a local authority or corporation or company managed or controlled by it, holds a controlling financial share or interest or which is specified by the Federal Government for the purposes of this clause; and*

*(ii) a project financed out of an external loan, or with external aid until it reaches:*

*(A) in the case of an industrial project, the stage at which it is capable of commencing normal production; and*

*(B) in the case of any other project, the stage at which it is capable of being put to the use for which it is intended; and*

*(c) "statutory corporation" means a body corporate, other than a company, established or set up by the Federal Government or a Provincial Government in pursuance of any law.*

*(3) Subject to the provisions of sub-sections (4) and (5), all insurance business relating to any public property, or to any risk or liability appertaining to any public property, shall be placed with the Company only and shall not be placed with any other insurer:*





*Provided that marine, aviation and transport insurance relating to goods the import of which is financed out of an external loan, or with external aid, may, at the option of the importer, be placed with any insurer authorised to carry out such insurance business in the country giving the loan or aid.*

(4) The Federal Government may –

(a) by order in writing exempt from compliance with subsection (3) any property or liability to which that subsection applies; or

(b) by notification in the official Gazette exclude from the application of subsection (3) such property or liability as is specified in that notification.

(5) If the Company declares in writing that it is not able, by virtue of the operation of a provision of this Ordinance or for any other reason, to enter into a contract of insurance to which sub-section (3) refers, the property or liability which is the subject of that proposed contract of insurance shall be exempted from the provisions of sub-section (3) to the extent of the insurance proposed to be obtained by means of that contract of insurance.

(6) Any person who insures, and any insurer which accepts insurance of, any property or liability, knowing such insurance to be in contravention of sub-section (3), shall be guilty of an offence:

*Provided that no person shall be in contravention of sub-section (3) by reason only of that sub-section becoming applicable to property or liability to which it was not applicable at the time that a contract of insurance in respect of that property or liability was taken out."*

**D. Summary of arguments and conclusions in respect of each issue**

12. The written comments and arguments of the Respondents have been reviewed. The Respondents are of the opinion that the Government of Pakistan has published classification of all public sector entities i.e. the ministries and their respective associated departments / corporations under which ICAP has not been classified as a public sector entity. Moreover, as per the Respondents, ICAP has itself claimed to be an autonomous body registered under Chartered Accountants Ordinance, 1961 despite appointment of four Government nominees on its council and that does not fall in the category of public sector. The Respondents, however have admitted that the policy issued to Virtual University of Pakistan was in violation of 166 of the Ordinance, and the Company intends to withdraw it after expiry of the current insurance policy treating it as a public sector entity.

13. It is pertinent to mentioned that by virtue of the definition of the public property as laid down under Section 166 of the Ordinance, any property, movable or immovable, which belongs to, or the safety of which is the legal responsibility of a statutory corporation shall be deemed to be the public property. And, Section 166 of the Ordinance has also defined the term "statutory corporation" as a body





corporate, other than a company, established or set up by the Federal Government or a Provincial Government in pursuance of any law.

14. In the instant case, the ICAP has been established through an act of parliament named as "Chartered Accountants Ordinance, 1961", and thus, it becomes imperative to declare ICAP as a "statutory corporation" in terms of Section 166 of the Ordinance. So, any kind of insurance of properties, whether movable or immovable owned by ICAP, shall fall within the definition of "public property" in light of Section 166 of the Ordinance. And the same treatment would also apply to the VU. Therefore, the Company issued insurance policies to ICAP and VU in violation of Section 166 of the Ordinance.

#### **E. Overall Conclusion**

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 and other legal references, I am of the view that there has been an established default of the Section 166 the Ordinance. However, before proceeding further, I find it relevant to discuss the duties of the directors whom are required to be vigilant and perform their duties with due care. The directors are supposed to be well aware of their legal obligations in connection with the requirement of Rules and Regulations framed for an insurer.

16. After carefully examining the arguments and studying the facts and findings of the case as mentioned in the above paras of this Order, the default of Section 166 of the Ordinance has been established, as aforesaid. Therefore, the penalty as provided under Section 156 of the Ordinance can be imposed onto the Respondents.

17. The provisions of Section 156 of the Ordinance state that:

*"Penalties. - 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."*

18. However, the Respondents were under the misconception that ICAP does not fall under the category of "public property" as defined under Section 166 of the Ordinance. The misconception or confusion took its root due to non-inclusion of ICAP in the list of functional and legal classification of corporations, autonomous bodies and attached departments under the Federal Government (April 2008), which was compiled by the National Commission for Government Reforms - Prime Minister's Secretariat. It would be pertinent to state that the said list was not







backed by any statute or law, and that it was compiled by the National Commission for Government Reforms to review the size and structure of the Government with the objective of providing a modern, efficient and accountable system of governance. Therefore, the aforesaid classification list cannot be considered as exhaustive for the purpose of "public property" as defined under Section 166 of the Ordinance.

19. Moreover, the Respondents have admitted their mistake of issuance of policy to VU, which was an oversight on their part.

**F. Penalties and Directions**

20. In exercise of the power conferred on me under Section 156 of the Ordinance, I, take a lenient view by not imposing the penalty as provided under the said Section of the Ordinance, and thus condone the Respondents for the reasons and circumstances as mentioned in the foregoing paras hereof. However, the Respondents are hereby strictly warned and directed to take immediate steps to discontinue issuing policies in respect of any "public property". The Respondents are further directed to note that in case of similar non-compliance in future, the Commission shall take severe action. Moreover, the Respondents are hereby directed to observe strict compliance of the provisions of the Ordinance, Rules and Regulations in future.

21. However, in case any willful misstatement is subsequently found in the submissions made by the Respondents, the Commission shall initiate proceedings under Section 158 of the Ordinance.

22. This Order is issued without prejudice to any other action that the Commission may initiate against the Company and / or its management (including the Chief Executive Officer of the Company) in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

**Hasnat Ahmad**  
Director

