
PART II

Statutory Notifications (S.R.O. 938)

GOVERNMENT OF PAKISTAN

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

NOTIFICATION

Islamabad, the 12th December, 2002

S.R.O. (I)/2002. - In exercise of the powers conferred by sub-section (2) of section 167 of the Insurance Ordinance, 2000 (XXXIX of 2000), the Securities and Exchange Commission of Pakistan, with the approval of the Board, is pleased to make the following rules, the same having been previously published as required by sub-section (2) of the said section, namely: -

1. Short title and commencement. - (1) These Rules may be called the Securities and Exchange Commission (Insurance) Rules, 2002.

(2) They shall come into force at once.

2. Definitions. - (1) In these rules, unless there is anything repugnant in the subject or context,-

(a) "Bank" means the State bank of Pakistan; and

(b) "Ordinance" means the Insurance Ordinance, 2000 (XXXIX of 2000).

(2) The words and expressions used but not defined shall have the meaning assigned to them in the Ordinance.

3. Qualifications of actuaries. - (1) Subject to sub-rule (2), any person signing as actuary under the Ordinance shall be a Fellow of -

(a) the Pakistan Society of Actuaries; or

(b) the Institute of Actuaries in England; or

(c) the Society of Actuaries in the United States of America; or

(d) such other body as may be recognized by the Commission for the purposes of this rule, after obtaining views of the Pakistan Society of Actuaries.

(2) The person referred to in sub-rule (1) shall have at least thirty-six months' post Fellowship experience out of which at least twelve months shall have been in Pakistan within the thirty-six months preceding the date of signing.

4. Additional sub-classes of insurance business. -

For the purposes of sub-section (5) of section 4 of the Ordinance, insurance business of the nature of a domestic insurance policy or of a private motor property damage policy as defined in section 2 of the Ordinance shall not be considered related and subsidiary to life insurance business.

5. Application for registration as an insurer.-(1) For the purposes of sub-section (6) of section 6 of the Ordinance, an application for registration as an insurer shall contain the following information, namely:-

(a) The name of the insurer;

(b) the address of the principal office and in the case of an insurer incorporated outside Pakistan, the address of the principal office outside Pakistan;

(c) the name, address and occupation of the directors of the insurer, and particulars of other directorships held by them;

(d) the nature of, and all considerations and other benefits passing under, any agreement between the applicant and

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- (e) the names and addresses of, and particulars of any business carried on by, each person holding an interest of ten per cent or more in the issued share capital of the insurer;
 - (f) a statement of the class or classes of insurance business to be carried on by the insurer;
 - (g) where registration is sought for life insurance, a statement of the statutory funds to be established by the insurer;
 - (h) the name and address of the auditor of the insurer, and a statement by the auditor that he consents to act as auditor of the insurer;
 - (i) where registration is sought for life insurance, the name and address of the appointed actuary of the insurer, and a statement by the appointed actuary that he consents to act as appointed actuary of the insurer;
 - (j) the name and address of the bank or banks which the insurer uses or proposes to use as its principal banker or bankers;
 - (k) the name and address of any investment custodian used or proposed to be used by the insurer;
 - (l) a statement of the authorized share capital and the paid-up share capital of the insurer, certified by the auditor of the insurer;
 - (m) a statement, dated not more than seven days previous to the date of the application, from the Bank showing the amount deposited pursuant to section 29 of the Ordinance;
 - (n) a statement of the existing, if any, and proposed reinsurance arrangements of the insurer;
 - (o) particulars of any agreement other than a reinsurance agreement which the applicant has with any person or body corporate carrying on insurance business;
 - (p) particulars of the measures proposed by the applicant to ensure compliance with the requirements laid down in section 11 of the Ordinance including particulars of the senior management structure of the applicant, and the qualifications and experience of senior managers and directors; and
 - q) particulars of the investment policy of the insurer.

(2) For the purposes of section 8 of the Ordinance, an application shall be a document, which may be inspected or copied, to the extent only of the information described in clauses (a) to (m), both inclusive, of sub-rule (1).

6. Documents to be submitted along with application for registration.- (1) For the purposes of sub-section (6) of section 6 of the Ordinance, the following documents shall be submitted along with any application for registration, namely:-

- (a) A copy of the Statute, charter, deed of settlement, memorandum of association or other document by which the applicant is constituted;
 - (b) a copy of the articles of association or rules in respect of the applicant;
 - (c) if applicable, a photocopy of the certificate of incorporation and the certificate of commencement of business of the applicant;
 - (d) in respect of an applicant who was not carrying on insurance business on the 19th August, 2000, a statement of assets and liabilities of the applicant, made up to a date not more than three months previous to the date of the application, in the form as set out in Annexure I for life insurers or non-life insurers, as the case may be, in conformity with the provisions of sub-section (1) of section 46 of the Ordinance;
 - (e) copies of all accounts, statements and reports laid before the shareholders of the applicant at the last five annual general meetings of the shareholders or, if less than five annual general meetings of the shareholders of the applicant have been held, copies of the accounts, statements and reports laid before the annual general meetings of shareholders which have been held;
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sub-section (b) or section 4 of the Ordinance, a certified copy of the published prospectus, if any, and of the standard policy forms of the insurer and statements of the assured rates, advantages, terms and conditions to be offered in connection with insurance policies together with a certificate in connection with life insurance business by the appointed actuary that such rates, advantages, terms and conditions are workable and sound; and

(g) a business plan showing projected business to be written and cash flows for a period of not less than ten years from the date of the application in the case of a life insurer and not less than three years from the date of the application in the case of a non-life insurer, showing the forecast financial position of the insurer as at the 31st December, in each calendar year, and the forecast results of the insurer for each year or part of a year ending on the 31st December.

(2) Any document required to be submitted which is not in either the English or Urdu language shall be accompanied by a certified translation of that document into the English or Urdu language.

(3) For the purposes of section 8 of the Ordinance, the documents specified in clauses (a), (b), (c), (d), (e) and (f) of sub-rule (1) shall be the documents which may be inspected and copied.

7. Renewal of registration.- (1) For the purposes of sections 11 and 12 of the Ordinance, every insurer registered under the Ordinance shall apply for renewal of registration on annual basis.

(2) Every application made under sub-rule (1) shall be accompanied by a declaration by the applicant that the conditions imposed on registered insurers as specified in sections 11 and 12 of the Ordinance have been complied with.

8. Transitional provisions.- (1) The provisions of this rule shall apply to conversion from a life insurance fund to a statutory fund or funds under section 25 of the Ordinance.

(2) Upon conversion, an insurer shall allocate all policies, which are in force, including policies, which have been made paid-up under the provisions of the repealed Act, to one or more statutory funds in accordance with such criteria as may be determined by the appointed actuary.

(3) Upon conversion, an insurer shall create so many as are required of the ledger accounts specified in sub-sections (1) and (2) of section 22 of the Ordinance.

(4) As at the date of conversion the opening balance in A, B, C and D accounts shall be determined by the appointed actuary on a fair and equitable basis having regard to the provisions of the Ordinance.

(5) The amount initially recorded as capital contributed by shareholders shall be the cumulative amount as at the date of conversion of capital, if any, contributed by shareholders in respect of the business carried on in the statutory fund created by conversion, after the deduction of any such capital as at that date which has been allocated for the benefit of participating policy holders.

(6) The amount initially recorded as reserves shall be the amount as at the date of conversion of any reserves required to be maintained under the Ordinance.

(7) Immediately following the recording of the amounts referred to in sub-rules (4), (5) and (6), the insurer may effect a transfer from the B account to the credit of the C account of not more than such amount which would result in the B account having a credit balance of one-ninth of the A account:

Provided that in the case of the State Life Insurance Corporation the words "one-ninth" in this sub-rule shall be read as "one-thirty-ninth".

9. Minimum statutory deposit levels.- (1) Subject to sub-rules (2) and (3), for the purposes of clause (b) of sub-section (2) of section 29 of the Ordinance, the prescribed amount shall be five million rupees.

(2) For an insurance company which has, for two years immediately preceding the end of any calendar year, maintained not less than the minimum level of paid up capital applicable to that company under section 28 of the Ordinance and not less than the minimum level of solvency applicable to that company under section 35 or 36 of the Ordinance, in both cases without applying the proviso to section 28 of the Ordinance, the prescribed amount in respect of that company under sub-rule (1) shall be zero.

(3) Subject to sub-rule (2), with immediate effect the amount of statutory deposit shall be one million rupees and from then for the period until the 31st December, 2002, two and half million rupees, until the 31st December, 2003, three and half

10. Admissibility of assets. - (1) For the purposes of sub-section (2) of section 32 of the Ordinance, the prescribed percentages for an insurance company which was registered as at the commencement date of the Ordinance, the amount prescribed in the repealed Act shall be applicable until the 31st December, 2002, and thereafter for such companies, and for a company registered after the commencement date, the percentages specified in column (3) of the table below shall apply for the clauses of the said sub-section specified in column (1) of that table in respect of the assets described in column (2) thereof.

Clause.	Description of Assets	Percentage
(1)	(2)	(3)
(b)	In a statutory fund of a life insurer, any assets	Five per cent for life insurer.
(f)	Loans which are secured against immovable property:	
	(i) approved securities and approved investments; and	Fifty per cent for both life and non-life insurer.
	(ii) other loans secured against immovable properties.	Five per cent for both life and non-life insurer.
(n)	Any one unit of immovable property.	Fifty per cent in the case of non-life insurer and five percent in case of life insurer.
(o)	Total immovable property.	Sixty per cent in the case of non-life insurer and twenty per cent in case of life insurer.
(p)	Shares in any one company or in group of related companies	Twenty-five per cent in the case of non-life insurer and five per cent in case of life insurer.
(q)	Shares of the listed companies in the aggregate.	Seventy per cent in the case of non-life insurer and fifty per cent in case of life insurer.
(r)	Shares of companies (not being listed companies) in the aggregate.	Ten per cent in the case of non-life insurer and two and half per cent in case of life insurer.
(s)	Immovable property and shares in the aggregate.	Eighty per cent in the case of non-life insurer and sixty per cent in case of life insurer.
(t)	Loans to any person or group of related persons	Two and half per cent for both life and non-life insurers.

(2) Where regulations issued under this rule, or any amendment to such regulations, reduces the amount or proportion of assets which may be held in a particular form by insurers, those regulations or that amendment shall not come into effect until one year from the date at which the change to regulations is published, unless the Commission is satisfied on reasonable grounds that earlier application is warranted for the protection of policyholders or to deal with an actual or apprehended breach of the Ordinance or the rules made thereunder.

11. Valuation. - For the purposes of sub-section (3) of section 34 of the Ordinance, where an amount referred to in sub-section (1) of that section cannot be reliably determined by reason of the absence of relevant information on which to base a determination, an insurer may perform a valuation based on the present value of the expected future cash flows pertaining to an asset or a liability, as the case may be, and in determining the present value a discount rate appropriate to the timing of the future cash flows shall be used.

12. Minimum required assets in statutory fund. - For the purposes of sub-sections (3), (4) and (5) of section 35 of the Ordinance, policyholder liabilities shall be determined by the Commission, by notification in the official Gazette:

Provided that where sub-section (6) of section 50 applies in respect of a statutory fund, policyholder liabilities for the purposes of the said sub-sections shall not be less than the amount determined by the appointed actuary under that sub-section.

13. Solvency of non-life insurer. - (1) For the purposes of clause (a) of sub-section (3) of section 36 of the Ordinance,

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- (a) In the case of an insurance company registered after the commencement date, fifty million rupees; and
 - (b) in the case of an insurance company registered at the commencement date
 - (i) the amount applicable under the repealed Act, until the 31st December, 2002;
 - (ii) fifteen million rupees until the 31st December, 2003;
 - (iii) twenty-five million rupees until the 31st December, 2004; and
 - (iv) fifty million rupees until the 31st December, 2005, and thereafter.

(2) For the purposes of clause (b) of sub-section (3) of section 36 of the Ordinance, the following shall be the prescribed percentage, namely:-

- (a) In the case of an insurance company registered after the commencement date, twenty per cent; and
- (b) in the case of an insurance company registered at the commencement date
 - (i) ten per cent until the 31st December, 2002;
 - (ii) fifteen per cent until the 31st December, 2004; and
 - (iii) thereafter the percentage as set out in clause (a) of this sub-rule.

(3) For the purposes of clause (c) of sub-section (3) of section 36 of the Ordinance, the following shall be the prescribed percentage, namely:-

- (a) In the case of an insurance company registered after the commencement date, twenty per cent; and
- (b) in the case of an insurance company registered at the commencement date
 - (i) ten per cent until the 31st December, 2002;
 - (ii) fifteen per cent until the 31st December, 2004; and
 - (iii) thereafter the percentage as set out in clause (a) of this sub-rule.

14. Loans to employees and agents. - (1) For the purposes of sub-section (8) of section 37 of the Ordinance, an insurer may, at its discretion, grant to an employee or an agent of the insurer a loan or temporary advance, not otherwise prohibited or provided for by the Ordinance, as follows, namely:-

- (a) A life insurer may grant a loan on a life insurance policy issued by that insurer to an employee or an agent of that insurer, of not more than the surrender value of that policy;
 - (b) an insurer may grant to an employee or an agent of that insurer a loan on mortgage of immovable property, provided that -
 - (i) the amount of the loan does not at any time exceed fifty per cent of the value of the property or, if the purpose of the loan is to construct a house, fifty per cent of the sum of the value of the land and the amount paid or contracted to be paid to date for such construction;
 - (ii) the loan is repayable within a period of not more than fifteen years; and
 - (iii) the amount payable by the employee or an agent in repayment of such loan in any one year, including principal and profit or return (whatever called or described) does not exceed (in the case of an employee) one third of the total remuneration of the employee from the insurer during the most recent year or (in the case of an agent) one-fourth of the total renewal commission payable to the agent by the insurer in respect of the most recent year;
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provided that -

- (i) the employee or an agent has served the insurer continuously for a period of not less than three years, in case of an employee, and five years, in case of an agent, as at the date at which the loan is granted;
 - (ii) the conveyance purchased is mortgaged to the insurer;
 - (iii) the loan is repayable within five years; and
 - (iv) the total amount of the loan (in case of an employee) does not exceed the total remuneration of the most recent year of the employee and (in case of an agent) total renewal commission payable to the agent by the insurer in respect of the most recent year;
- (d) an insurer may grant to an employee of that insurer a temporary loan or advance to meet fees and expenses associated with the completion of a course of study by that employee, provided that -
- (i) the employee has served the insurer continuously for a period of not less than two years; and
 - (ii) the course of study is offered by-
 - (a) a college or university or institution in Pakistan or a college or university or institution outside Pakistan which offers distance learning program to students resident in Pakistan, provided in each case, the college or university or institute is recognized by the University Grants Commission or by any other authority constituted by the Federal Government for this purpose; or
 - (b) the Pakistan Insurance Institute (PII) or an insurance institute affiliated to that Institute; or
 - (c) the Chartered Insurance Institute in the United Kingdom (CII); or
 - (d) an insurance industry association approved for the purposes of this clause by the Commission; or
 - (e) all courses offered by the Institute of Actuaries, United Kingdom; or
 - (f) the Institute of Chartered Accountants of Pakistan (ICAP); or
 - (g) the Institute of Cost and Management Accountants of Pakistan (ICMAP); or
 - (h) the Institute of Chartered Accountants England and Wales (ICAEW); or
 - (i) the Institute of Chartered Management Accountants (CIMA), United Kingdom; or
 - (j) the Association of Chartered Certified Accountants (ACCA); or
 - (k) the Institute of Certified Public Account (CPA), USA; or
 - (l) the Institute of Internal Auditors (IIA), USA; or
 - (m) the Institute of Chartered Financial Analyst (CFA), USA; or
 - (n) all courses offered by the Institute of Life Office Management Association (LOMA) including the Chartered Life Underwriters (CLU), USA; or
 - (o) all courses offered by the Society of Actuaries (SoA), USA; or
 - (p) such other body as may be specified by the Commission, by notification in the official Gazette;
 - (iii) the loan is repayable within five years of the date of grant of loan; and
 - (iv) the amount of the loan does not exceed one half of the total remuneration of the employee from the insurer during the
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- (e) an insurer may grant to an employee of that insurer a temporary loan or advance, provided that -
- (i) the loan is repayable within twelve months; and
- (ii) the amount of the loan does not exceed one-sixth of the total remuneration of the employee from the insurer during the most recent year; and
- (f) an insurer may grant an employee of that insurer house rent advance not exceeding six months basic pay of the employee, provided that -
- (i) the amount of advance is payable within twelve months from the date of grant of such advance; and
- (ii) the employee has served the insurer continuously for a period not less than two years.
- (2) A reference in this rule to the amount of a loan or advance or the amount payable in a year includes principal and profit or return, whatever called or designated, and refers to the nominal amount of the loan or advance and not to any lower amount which may be ascribed to that loan for the purposes of section 34 or 46 of the Ordinance.
- (3) Loans shall be granted in such a way that the total amount of repayment under all loans under this rule shall not exceed fifty per cent of total remuneration of the employee or fifty per cent of the average monthly renewal commission of the agent for the most recent year.
- (4) Recovery of a loan from the employee or agent shall not be deferred in any case.
- (5) The fact that a loan or advance is permitted under this rule does not imply that-
- (a) an insurer is obliged to grant such a loan or advance;
- (b) the granting of such a loan or advance relieves an insurer from any liability or obligation in respect of that loan or advance or in respect of its business generally to which it is subject by reason of the Ordinance; or
- (c) such a loan or advance is an admissible asset of the insurer for the purposes of determination of the net admissible assets of the insurer for solvency purposes.

15. Requirement to effect and maintain reinsurance arrangements. - (1) For the purposes of sub-sections (2) and (3) of section 41 of the Ordinance, the following information shall be submitted in respect of each reinsurance arrangement by the 31st January of each year, namely:-

- (a) Type of reinsurance treaty;
- (b) number of lines or slabs, as the case may be;
- (c) insurers maximum retention;
- (d) maximum liabilities under total reinsurance treaty;
- (e) estimated premium income;
- (f) aggregate commission loss limit, if any;
- (g) commission ;
- (h) profit commission;
- (i) over riding commission;
- (j) name and addresses of reinsurers with their respective shares and their rating by reputable international rating agencies;
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(l) name and addresses of broker who placed reinsurance.

(2) If the insurer's retention is based on maximum probable loss the maximum liabilities of each reinsurer must be stated, including maximum liability under the total reinsurance treaty and a separate statement for each class or sub-class of business shall be furnished.

16. Accounting and reporting.- For the purposes of sub-sections (1) and (2) of section 46 of the Ordinance, the statements as set out in Annexure II shall be furnished.

17. Additional copies. - (1) For the purposes of sub-sections (1) and (2) of section 47 of the Ordinance, the number of additional copies required to be delivered shall be one, which shall be delivered in printed form to the Insurance Division of the Commission.

(2) For the purposes of sub-section (4) of section 47 of the Ordinance, one translation either into the English or Urdu language shall accompany each copy in the original language required to be delivered, and that translation shall be duly attested.

18. Fees for special audit. - (1) The fees payable under sub-section (4) of section 49 of the Ordinance to an auditor for a special audit shall be such as may be determined by the Commission on case-to-case basis.

(2) The Commission shall in determining such fees have regard to, without limitation-

(a) the size of an insurer and the complexity of the business of the insurer;

(b) the quality of the books and records of the insurer;

(c) the nature of the considerations which led the Commission to direct that the special audit be performed and the impact of such considerations on the risk of material error in the company's records and returns and the difficulty of performance of the special audit;

(d) the seniority and experience of the persons involved in the special audit;

(e) the amount of time necessarily expended on the special audit;

(f) the amount of money disbursed as expenses in the conduct of the special audit; and

(g) the fees ordinarily charged for specialist auditing services.

19. Financial condition report.- For the purposes of section 50 of the Ordinance, the following shall, without limitation, be included in a Financial Condition Report prepared by an actuary in respect of a life insurer, namely:-

(a) The date as at which the valuation of policyholder liabilities was performed;

(b) the statement required under sub-section (3) of section 50 of the Ordinance;

(c) a statement of any reservations or qualifications to which the report is subject, including any material matters in which the appointed actuary has been unable to comply with any relevant professional standards to which the appointed actuary is subject by virtue of his membership of an actuarial institute, faculty, society or association;

(d) a brief description of-

(i) the business underwritten by the life insurer, and the statutory funds in which it is written;

(ii) the reinsurance arrangements of the life insurer;

(iii) the assets of the life insurer;

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- (v) the unit pricing policy of the life insurer (where applicable); and
 - (vi) such other matters relating to the business of the life insurer as the appointed actuary believes should be brought to the attention of the life insurer;
 - (e) a statement of the appointed actuary's opinion on the adequacy of premium rates and charges in respect of policies underwritten by the insurer;
 - (f) a statement of the appointed actuary's valuation of policyholder liabilities according to the minimum valuation basis prescribed under sub-section (5) of section 50 including details of
 - (i) the general principles adopted in the valuation of each class of business and group of policies in force at the valuation date;
 - (ii) the reasons for adoption of those general principles;
 - (iii) the methods adopted in the valuation;
 - (iv) policies which under the valuation methods would be treated as an asset, and actions taken to identify and eliminate such assets from the valuation;
 - (v) bases adopted for mortality and morbidity; and
 - (vi) currency exchange rates adopted in the translation of liabilities denominated in foreign currency;
 - (g) where sub-section (6) of section 50 applies, a statement of the appointed actuary's valuation of policyholder liabilities under that sub-section;
 - (h) a statement of the appointed actuary's determination of the surplus, surplus arising on participating life insurance business, if any, surplus adjustment, if any, and expense adjustment, if any; and
 - (i) a statement by the appointed actuary, expressing an opinion as to whether-
 - (i) the basis of apportionment of revenues and expenses between the statutory and other funds of the life insurer, and between classes of policy holder within statutory funds, is fair and equitable;
 - (ii) the surplus attributed to participating policyholders has been determined in accordance with the Ordinance;
 - (iii) in relation to each statutory fund of the insurer, the insurer has complied, on the valuation date, with the provisions of so many as are applicable of sub-sections (3), (4) and (5) of section 35 of the Ordinance, relying on the audited statements of admissible assets; and
 - (iv) the life insurer has adequate capital to continue its business at planned levels for a period of not less than five years.

20. Minimum valuation basis. - (1) For the purposes of sub-section (5) of section 50 of the Ordinance, the minimum valuation basis shall be such as is determined by the Commission, by notification in the official Gazette.

(2) Until the issue of a notification under sub-rule (1), the minimum valuation basis shall be that applicable under the repealed Act immediately before the commencement date of the Ordinance.

21. Financial Statements of Life Insurance Companies. (1) For the purposes of section 52 of the Ordinance, the statements required to be filed by life insurers under the Companies Ordinance, 1984 (XLVII of 1984), shall be as set out in Annexure II.

(2) The Commission may, by notification in the official Gazette, not inconsistent with these rules, provide for accounting and presentation procedures for preparing financial statements under this rule, and the basis of calculation of any amount or ratio required under this rule to be included in any statement forming a part of those financial statements.

22. Amalgamation and transfer of life insurance business. - The statement of assets and liabilities required under

23. Compliance visiting.- (1) This rule refers to the powers given to the Commission to conduct compliance visits under section 84 and 110 of the Ordinance.

(2) A compliance visit by the Commission or a delegate of the Commission to the premises of an insurer, an agent, or a broker ('party visited') shall not constitute an investigation or an audit under the Ordinance.

(3) The Commission shall give not less than two week's written notice of an intention to perform a compliance visit, and shall have regard to the convenience of the party proposed to be visited in setting the date, time, place and duration of the visit:

Provided that if the Commission believes on reasonable grounds that waiver of notice is necessary to prevent breach of the Ordinance, or to prevent concealment of evidence of actual or apprehended breach of the Ordinance, the period of notice may, with the consent of the Chairman of the Commission, be reduced to twenty-four hours.

(4) The notice of a visit shall set out the provision or provisions of the Ordinance, rules or regulations in respect of which it is proposed to verify compliance.

(5) A visit under this rule shall not be carried out in such a way as to disrupt unduly the operations of the party visited.

(6) A party visited shall not be visited again under this rule until the elapse of not less than six months from the termination of the previous visit, except to the extent that the Commission believes on reasonable grounds that a subsequent visit is necessary to satisfy it that appropriate action is being taken to remedy a defect noted on a compliance visit.

(7) A party visited shall co-operate fully with the Commission in the conduct of compliance visit, and shall make available such books and records, information and explanations as the Commission may reasonably require.

(8) The Commission shall give to a party visited, within one month following the completion of compliance visit, a written report on the results of the compliance visit.

(9) The party visited shall, if the Commission so requires, respond to the written report referred to in sub-rule (8) within one month following receipt by the visited party of the report.

(10) The Commission may have regard to the results of a compliance visit in deciding whether to take any action in respect of a party visited under powers given to the Commission or to the Federal Government under the Ordinance, rules or regulations; provided that no such action shall be taken without giving the party visited an opportunity to be heard.

24. Independent insurance survey to be conducted.- (1) Subject to sub-rule (2), for the purposes of sub-section (1) of section 85 of the Ordinance, the Commission, may direct the insurer to arrange for an independent or another survey of the loss through another surveyor or surveyors approved by the Commission, if in case the Commission has reason to believe that an insurance surveyor has given a false report or has grossly over-assessed or under-assessed a loss or has made an adjustment of loss in a grossly unjust manner.

(2) Independent survey shall be conducted in respect of the claim lodged for the amount exceeding fifty thousand rupees except in case of motor and casualty insurance where the amount of loss or claim is for more than twenty-five thousand rupees.

25. Conduct of agents and insurer.- (1) For the purpose of sections 96 to 99 of the Ordinance, the following actions of an agent shall be treated as violations of the Ordinance, and the agent shall be disqualified from engaging into the business of insurance agency for a period of five years, namely:-

(a) Acts as agent in breach of any of the sub-sections of section 96;

(b) holds the property or other documents and cover notes of the previous insurer after entering into the contract of agency with the new insurer;

(c) fails to pass on the payment received from the policyholder to the insurer within the prescribed time as per sub-section (2) of section 99; and

(d) receives from or pays to a policyholder or intending policyholder any sum in relation to the contract of insurance

(2) For the purposes of sections 96 to 99, the following actions of an insurer shall be treated as violations of the Ordinance, and the insurer shall be liable to penalty as per section 156 of the Ordinance, namely:-

- (a) Appoints a person as an agent in breach of any of the sub-sections of section 96;
- (b) fails to take action as provided in sub-rule (3) on the written complaint of the policyholder or intending policyholder within a period of one month;
- (c) knowingly permits a disqualified agent to obtain and operate another contract of insurance agency in the name of another person or close relative who is not an active insurance agent;
- (d) pays commission or other remuneration to an agent in violation of sub-section (5) of section 99; and
- (e) fails to disqualify an agent found guilty of offence under sub-rule (1).

(3) On receipt of a written complaint from the policyholder or intending policyholder that an agent or any other person related to the agent has received money in relation to a contract of insurance from the complainant and the agent has failed to deposit this money with the insurer, the insurer shall conduct an inquiry into it and inform the policyholder or intending policyholder, as the case may be, about the outcome of the inquiry within one month period of the complaint.

26. Qualifications required of insurance agents. - For the purposes of section 97 of the Ordinance, the following shall be the prescribed qualifications, namely:-

- (a) For persons holding licence of insurance agent or certificate of employer of agents under the repealed Act, there shall be no prescribed qualifications; and
- (b) for persons entering into agency contracts after commencement of the Ordinance, the minimum qualification shall be Matriculate or Secondary School Certificate, and in the case of a natural person, that person, or in the case of a body corporate, each director, or in the case of a partnership, each partner, shall have the said qualification, and -
 - (i) agents operating in the non-life insurance business shall be required to complete the foundation course of the Pakistan Insurance Institute, within a period of three years; and
 - (ii) agents operating in the life insurance business shall be required to complete a foundation course of three months durations, to be organized by the concerned insurance company.

27. Reporting by insurance brokers. - (1) Each year an insurance broker shall be required to provide to the Commission, as at the preceding 31st December, or in respect of the year then ended -

- (a) a balance sheet of the company;
- (b) a profit and loss account of the company;
- (c) a statement of the insurance premium written through the broker, distinguishing between premium in respect of which the broker had an agency agreement with the insurer, subdivided by classes of insurance business, and premium in respect of which the broker did not have an agency agreement with the insurer; subdivided by classes of insurance business; and
- (d) a statement of the commission or brokerage, by whatever name called, receivable by the broker, subdivided by classes of insurance business, distinguishing between commission earned on premium in respect of which the broker had an agency agreement with the insurer, and commission earned on premium in respect of which the broker did not have an agency agreement with the insurer.

(2) The Commission may, on the application of a broker, approve a date other than the 31st December, for the date as at which the statements shall be required to be made up for the purposes of sub-rule (1).

(3) The statements referred to in this rule shall be provided to the Commission not later than four months after the date to which they are made up.

(a) make, issue, circulate or cause to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the bonuses, shareholders' dividends or share of the surplus to be received thereon, or make any false or misleading statement as to the bonuses, shareholders' dividends or share of surplus previously paid on similar policies or make any misleading representation or any misrepresentation as to the financial condition of any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to enter into, allow to lapse, forfeit or surrender his insurance policy; or

(b) make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster or in the electronic media or in any other manner an advertisement, announcement or statement with respect to the business of insurance, or the financial position of any insurer or with respect to any person in the conduct of his insurance business, which is false, untrue, deceptive, misleading or calculated to injure any person engaged in the business of insurance.

(2) Nothing contained in sub-rule (1) shall prevent an insurer from publishing any return in a form in which it has been furnished to the Commission or a true and accurate abstract from such returns.

29. Power of the Commission to provide for matters in respect of promotional material and policy

documentation.- (1) The Commission may, by notification in the official Gazette, not inconsistent with the provisions of the Ordinance, provide for matters in relation to any promotional material or policy documentation issued by a life insurer, including but not limited to the form and content of that material or documentation and the form and content of any notices which that material or documentation shall contain.

(2) A notification issued under sub-rule (1) shall have regard to the information needs of policyholders and their capability of understanding information provided to them.

(3) For the purposes of this rule,-

(a) "promotional material" means any document or advertisement that contains statements that may affect a person's decision to enter into, vary or continue a life policy, or a particular type of life policy; and

(b) "policy documentation" includes contracts, endorsements and proposal documentation.

30. Power to require withdrawal of materials used for communication.- The Commission may require any person carrying on such activities in Pakistan to withdraw any written, electronic or other material issued by it for mass communication or communication with a policyholder or prospective policyholder including a policy or proposal document -

(a) if it includes any matter which is, in the opinion of the Commission, likely to mislead a policyholder or a prospective policyholder; or

(b) if it is, in the opinion of the Commission, misleading by omission, ambiguous or couched in obscure language.

31. Liability for insurance advice.- Where insurance advice is given in writing to a person by an insurer, an agent of an insurer or an insurance broker, that advice shall have regard to the circumstances of the person, and where that advice is not reasonable having regard to those circumstances, and where it is reasonable for the person receiving the advice to rely upon it, the person receiving the advice shall be entitled to recover (in the case of an insurer or an agent of an insurer), from the insurer or broker, as the case may be, any loss or damage directly suffered by him as a result of following or acting upon the advice in good faith. The burden of proving that due regard was given to the circumstances of the policyholder and that the advice was reasonable under the circumstances shall rest with the insurer or broker.

32. Policyholder's duty of disclosure.- (1) A proposal form provided to a prospective policyholder shall carry or contain a notice of his duty of disclosure stating the consequences of non-disclosure.

(2) If an insurer fails to comply with the provisions of sub-rule (1), the insurer shall not be able to rely upon non-disclosure by the policyholder (other than fraudulent non-disclosure) as grounds for refusing to pay a claim or for diminishing a claim which is otherwise payable.

33. Duty of life insurer to provide certain information.- (1) A life insurer shall provide to an intending policyholder under a policy the terms of which or the provisions of the Ordinance provide for it to acquire a surrender value, at or before the commencement of the policy, a clear statement of the expected surrender values on the policy at one year from the

earlier until maturity, and the assumptions on which those expected surrender values are based.

(2) A life insurer shall provide to the intending policyholder a clear statement of the options available to the policyholder should the policy holder not maintain premium payments:

Provided that this statement shall not be required in respect of a life insurance policy under the terms of which the premium is payable once only.

(3) The Commission may, by notification in the official Gazette, not inconsistent with the provisions of the Ordinance, provide for any matters relating to the form and content of the notices provided to an intending policyholder under this rule, including but not limited to –

(a) the assumed investment earnings rates and in the case of participating policies bonus crediting rates on the basis of which surrender values included in such notices are calculated;

(b) the assumed expense rates on the basis of which surrender values included in such notices are calculated; and

(c) the inclusion in such notices of words in a form as required by such notification.

34. Unit valuations. - (1) Subject to sub-rule (2), a life insurer offering investment-linked policies shall publish, in a newspaper having general circulation, not more than ten days following the last day of each month, the values attributed by it to units for the purpose of redemption of units by policyholders at close of business on the last working day of that month.

(2) Where a life insurer offering investment-linked policies publishes the values attributed by it to units for the purpose of redemption of units by policyholders more frequently than is required by sub-rule (1), that insurer shall not be required to publish the information as at close of business on the last working day of a month provided that –

(a) information referred to in sub-rule (1), made up as at close of business on a date not more than five days prior to the last working day of that month or not more than five days after the last working day of that month, is published in a newspaper having general circulation; and

(b) the information is published not more than ten days following the date as at which it is made up.

35. Insurance policy not to be avoided for non-payment of premium.- (1) No insurance policy shall be liable to be avoided on the ground that the premium has not been paid.

(2) Nothing in this rule shall prevent the inclusion in a policy of a provision to the effect that cover under the policy shall not commence until the premium has been paid or guaranteed to be paid in such manner as may be set out in the policy or otherwise accepted or agreed to by the insurer.

36. Endorsements. - No endorsement to a policy, which has retrospective effect, may be made without the express consent in writing of the policyholder.

37. Effect of averaging provision in domestic insurance policy.- (1) Subject to sub-rule (2), the operation of an averaging provision in a domestic insurance policy shall be limited to cases in which the amount of the sum insured is less than eighty per cent of the value of the property insured at the time of taking out the policy, and to cases in which the amount of the loss is greater than five per cent of the sum insured. The value of the loss to be paid shall be determined according to a sliding scale such that one hundred per cent of the loss is payable when the sum insured is eighty per cent of the value of the property, and the amount of the loss payable is reduced by one and a quarter per cent for each percentage point below eighty per cent that the sum insured bears to the value of the property insured at the time of taking out the policy.

(2) Nothing contained in sub-rule (1), shall prevent an insurer from inserting an averaging clause, which is more favourable to the policyholder.

38. Insurer's duties when claim denied.- (1) An insurer shall, whenever a claim is denied, provide the policyholder with a written statement of reasons for denial of the claim.

(2) Where refusal to pay a claim, in whole or in part, is based, in whole or in part, upon a survey report, the policyholder shall be provided, at his option, with a copy of the survey report.

term or which is for more than one year, shall be liable to be cancelled at the option of the policyholder within fourteen days of commencement, and if the policyholder cancels the policy within that time all amounts paid by way of premium shall be refunded without any deduction for management expenses, other than expenses incurred in connection with the medical examination of any person insured under the policy.

(2) No person shall offer any inducement to a person for the purposes of procuring that person to cancel his policy in accordance with this rule.

(MOHAMMAD HAYAT JASRA)
Executive Director

No. F.7(1)T/(I)/2000]

Annexure 1

Annexure 1 (Life forms)

Annexure 1 (Non Life forms)

Annexure 2

Annexure 2 (Accounting Regulations)

Annexure 2 (Life Accounting Forms)

Annexure 2 (Auditors Report Life)

Annexure 2 (Non Life Accounting Forms)

Annexure 2 (Auditors Report Non Life)
