***Before Ali Azeem Ikram, Executive Director/HOD (Adjudication-I)***

**In the matter of Show Cause Notice issued EFU Life Assurance Limited**

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| Date of Hearing | October 14, 2020 |

**Order-Redacted Version**

Order dated November 10, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of EFU Life Assurance Limited. Relevant details are given as hereunder:

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| **Nature** | **Details** |
| * Date of Action | Show Cause notice dated June 22, 2020 |
| * Name of Company | EFU Life Assurance Limited. |
| * Name of Individual\* | The proceedings were initiated against the Company i.e. EFU Life Assurance Limited and its Board of Directors. |
| * Nature of Offence | Proceedings under Sections 12(4), Section 95 of the Insurance Ordinance, 2000 (''The Ordinance''), Rule 62 of the Insurance Rules, 2017 (''Insurance Rules''), Regulations 10(b), 15(4), 17(a), (g) and (h), of the Bancassurance Regulations 2015 (''the Regulations''), Rule 6(1) (d) of the Unit Linked Products and Fund Rules, 2015 (the ''Fund Rules''). |
| * Action Taken | Key findings of default of Regulations were reported in the following manner:  I have carefully examined the facts of the case in light of the applicable provisions of the law and have given due consideration to the written as well as verbal submissions and arguments of the Respondents. I am of the considered view that from the aforementioned it  **transpires that certain requirements of the law with regard to unit linked products and their sale process were compromised which are summarized as follows:**   1. The Company has contended that none of the identified policies had account values; hence neither unit account statements were required nor not the same were sent under these policies. It was further stated that the statement of unit’s account containing details of “Account Value” starts after the payment of 2nd year’s premium under an insurance policy as per provisions of the section 89 of the Insurance Ordinance, 2000. However, Rule 6(1) (d) Unit Linked Products and Fund Rules, 2015 requires the insurer to provide the statement of unit account within one month of close of the financial year and within one month of close of every quarter. This statement is required to be shared with the policyholder regardless of value of units account. On the other hand, Section 89 of the Ordinance provides that a policy acquires its “surrender value” after 2nd year’s premium. Thus, the provisions of Section 89 require that policies cannot be surrendered before remaining in force for not less than 2 years. However, acquisition of surrender value by a policy which remains in force for 2 years has nothing to do with the value of its unit’s account which has to be shared with the policyholder from the first quarter of the commencement of a policy. Therefore, no exemption is available to the insurer from complying with the requirements of Rule 6(1) (d) of Unit Linked Products and Fund Rules, 2015 in the pretext of cash surrender value. In view of the above, the Company has failed to comply with the requirements of Rule 6(1) (d) of Unit Linked Products and Fund Rules, 2015. 2. Evidence of delivery of policy documents to the policyholders within free look period was not provided in most of the cases. Rule 62 of the Insurance Rules, 2017 makes it abundantly clear that the free look period starts from the date of commencement of a policy. The Company explained that policyholders were apprised through call back confirmation that the free look period starts from the date of delivery of documents; however, it cannot be considered as an evidence of compliance with Rule 62 which explicitly states that free look period shall be 14 days from the commencement date. It is an established fact that the policyholders were not intimated in writing that the free look period would start after delivery of documents. Therefore, the right of exercising surrender option within the free look period was denied to the policyholders as the Company has failed to comply with Rule 62 of the Insurance Rules, 2017. 3. Evidence of financial underwriting was also not provided in most of the cases. As per Regulation 17(g) of the Bancassurance Regulations, 2015, the Company was required to consider the regular income of the proposed policyholders in determining the affordability of the policy from the perspective of policyholder. The Company did not consider the regular income and affordability of the proposed policyholders before issuance of policies which caused grievances of policyholders. Under these circumstances, the Company has failed to comply with Regulation 17(g) of the Bancassurance Regulations, 2015. 4. As per Regulation 17(h) of the Bancassurance Regulations, 2015, the insurer is obligated to make a structured telephonic call within the free look period to all policyholders to confirm their understanding of the product, appropriateness of the product, considering the identified insurance needs and affordability of the product for the entire term. The insurer will retain the record of such calls, preferably using interactive voice response system, for at least 5 years or maturity of the product whichever is earlier. However, several shortcomings and inconsistencies were observed in the Call Back Confirmation. A comparison of CBC transcript provided along with the Company’s letter received on October 19, 2020 (subsequent to the hearing) and the Call Back Script submitted to the Insurance Division under Regulation 17(h) shows that former one lacks certain important questions to be asked from customers during call back confirmation. The Call Back Script submitted under Regulation 17(h) requires that if customer does not confirm the purchase of plan/product, then the Representative will ask the question during CBC that *“Since you were unable to confirm the plan and INCO we will need your consent to cancel the policy. Do you agree with this?”* However, this important question is not included in the CBC transcript shared subsequent to the hearing. Another important question mentioned in the Call Back Script submitted under Regulation 17(h) is that *“Do you find the annual/quarterly/monthly contribution payable amount affordable based on your monthly income?”* Again, the foregoing question is not included in the CBC transcript shared after the hearing. There is another question mentioned in the Call Back Script submitted under Regulation 17(h) which states that *“Did the sales officer of your branch highlight to you that the returns mentioned in the illustration are not guaranteed and the value of unit may rise or fall subject to market conditions”*. Yet another important question which was mentioned in the Call Back script submitted under Regulation 17(h) states that *“When you had purchased this Takaful Plan, did you receive a copy of the following documents after signing the same?” i.e. i) Takaful Proposal/Application Form; ii) Benefit Illustration Sheet; iii) Standing Order Form; iv) Basic Fact Sheet/Disclaimer Form”.* The Company has explained that no specific script is provided under the Regulations for CBC; therefore, the insurers are left with no other option but to decide the contents of CBC. Review of the reply of the Company shows that the Company relies on banks’ call back confirmation facility but the Company was still required to ensure that script of structured telephonic called meets the criteria given in Regulation 17(h) and conforms to the questions of Call Back Script submitted under Regulation 17(h); However, the essential contents aimed at seeking confirmation of i) understanding of the product ii) appropriateness of the product considering the identified insurance needs; and iii) affordability of the product for the entire term were ignored in the call back confirmation of the banks in the identified cases. Therefore, the Company has failed to comply with Regulation 17(h) of the Bancassurance Regulations, 2015. 5. In view the above violations of the law, it is evident that bancassurance agents were involved in mis-selling of the insurance policies/products of the Company, in terms of Regulation 15(4) of the Bancassurance Regulations, 2015. The Company is liable to its policyholders for the acts and omissions of its agents, pursuant to the provisions of Section 95 of the Ordinance. Further, the above state of affairs establishes the fact that that the Company has failed to conduct its business with due regard to the interests of its policy holders and potential policy holders and resultantly, it cannot be considered as conducting its business in a sound and prudent manner. Therefore, the Company has failed to comply with the requirements of Section 12(4) of the Ordinance.  * In view of the foregoing facts, I am of the considered view that flagrant and multiple violations of Section 12(4), Section 95 of the Insurance Ordinance, 2000 (‘the Ordinance’), Rule 62 of the Insurance Rules, 2017 (‘’Insurance Rules’’), Regulation 15(4), 17(g) & (h) of the Bancassurance Regulations, 2015 (‘’the Regulations’’), Rule 6(1) (d) of the Unit Linked Products and Fund Rules, 2015 (the ‘’Fund Rules’’) have been established and the Respondents are liable to be penalized under Section 156 of the Ordinance. Therefore, in terms of powers conferred under section 156 of the Ordinance, a penalty of **Rs.275, 000/- (Rupees Two Hundred Seventy Five Thousand only)** is hereby imposed on the Corporation.   Penalty Order dated November 10, 2020 was passed by Executive Director (Adjudication-I). |
| * Penalty Imposed | Penalty of 275,000/- (Rupees Two Hundred Seventy Five Thousand only**)** was imposed. |
| * Current Status of Order | Appeal was filed against the Order. |

Redacted version issued for placement on the website of the Commission.