

Fintech Friday: IRDAI Cracks Down on Statutory Breach: Acko General Insurance

Introduction

The Insurance Regulatory and Development Authority of India (“**IRDAI**”) in the recent order of Acko General Insurance Ltd (“**AGIL**”)¹ has penalised AGIL for undertaking practices to bypass the regulatory requirements/compliances laid down by IRDAI to engage outsourcing services. AGIL engaged Ola Financial Services Pvt. Ltd (“**OFSP**”) to provide Application Programming Interface (“**API**”) and advertisement services however as per IRDAI it has undertaken unauthorized outsourcing and indirect solicitation.

Facts of the Case

- AGIL engaged OFSP as a vendor to provide API and advertisement services (“**Services**”). The OFSP is a company that provides financial services and has no expertise in the Services as it is registered as pre-paid instrument issuer with RBI. In pursuant to that, OFSP was allegedly paid large sums for the Services. OFSP received ₹13.32 crore (2019-20) and ₹6.64 crore (2020-21). At the time of service, OFSP was not registered as a corporate agent, yet appeared to be soliciting policies.
- AGIL did not disclose these arrangements as outsourcing transactions under Regulation 21, nor did its outsourcing committee review or approve the contracts, contrary to the regulatory mandates. Payments were made even before formal agreements were executed.

Issues Identified

- Whether AGIL violated Section 40(1) of the Insurance Act (i.e. prohibition of payment by way of commission or otherwise for procuring business) by indirectly compensating an unregistered intermediary for solicitation?
- Whether the engagements with OFSP qualified as outsourcing under the Regulation?
- Whether AGIL bypassed procedural compliance such as outsourcing committee review, cost-benefit evaluation, and return filings with IRDAI?
- Whether there was a conflict of interest, especially with the insurer's holding company continuing services after AGIL officially terminated agreements with OFSP?

Arguments Made

AGIL contentions:

- Claimed OFSP was only a technology and advertising vendor, not soliciting policies.

¹ IRDAI/E&C/ORD/MISC/68/05/2025 dated 19-05-2025

- Argued that advertising and API development do not fall under the scope of outsourcing as defined by IRDAI.
- Stated that OFSPL became a corporate agent only in January 2021 (although IRDAI confirmed it was registered since Sept 2019).
- Claimed all agreements were separate and legally independent.

IRDAI's Position

- Held that services by OFSPL amounted to material outsourcing of insurance-related activity.
- Pointed out AGIL's failure to conduct due diligence or seek outsourcing committee approval, especially troubling as OFSPL had no expertise in tech/API.
- Noted that payments preceded the contracts, indicating pre-arranged intent rather than arms-length engagement.
- Established that conflict of interest existed, as the holding company continued the arrangement after formal termination.
- Confirmed the payments were functionally disguised remuneration, breaching Section 40(1) and multiple outsourcing regulations.

Judgment / Decision

The IRDAI concluded that AGIL had committed significant violations:

- Breached Section 40(1) of the Act, 1938;
- Violated Outsourcing Regulations regarding approval and reporting;
- Breached Regulation 6(c) of (Payment of Commission or Remuneration or Reward to Insurance Agents and Insurance Intermediaries) Regulations, 2016.

As a result:

- A penalty of INR 1 crore was imposed under Section 102 of the Act. The insurer was directed to place the order before its outsourcing board, implement a comprehensive outsourcing policy, and submit an action taken report within 90 days.
- Advised to correct processes involving conflict of interest, due diligence, and regulatory compliance.

LK Analysis

This case has shed light on the slackly structured collaborations with fintech or platform companies that functionally act as distribution arms, elaborating:

- IRDAI views the substance-over-form approach as an essential. If a service has material impact on policy solicitation, it is outsourcing. Mere execution of a contract as "advertising" or "API" or any other reason does not shield it from statutory compliances, which are a mandate if there is inculcation of outsourcing entity.

From a governance standpoint:

- IRDAI has structured disclosure/approval/diligence mechanism by establishing an outsourcing committee under Regulation 8 of the Regulation and mandating:
 - ✓ The insurers to take approval of the outsourcing committee to engage any outsourcing entity according to Regulation 15(d) of the Regulation.
 - ✓ The insurer to ensure that the outsourcing committee has provided its opinion on outsourcing of any material activity by considering potential benefits of outsourcing against any risk in accordance with Regulation 8(iv) of the Regulation.
- IRDAI's decision to deem OFSPL inexperienced in advertising/API services, due its registration as a PPI issuer with the RBI, may not align with the current digital business landscape. As OFSPL's existing user base could potentially be leveraged for digital marketing and other product offerings.

Contact Us

In case of any queries/clarifications, please feel free to reach out to

Mr. Arunabh Choudhary at arunabh@lawknit.co;

Mr. Amol Apte at amol.apte@lawknit.co

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