



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Say No to Corruption

Before

Mr. Shahzad Afzal Khan, Director/Head of Department (Adjudication-I)

In the matter of

Syed Sarocsh Ahmed (Director of Crescent Star Insurance Company Limited)

Number and date of Show Cause Notice (SCN)	2(338)SMD/Adj-1/2022-584 Dated March 29, 2022
Date of Hearing:	June 21, 2022, September 12, 2022, November 29, 2022, April 10, 2023 and May 18, 2023
Present at the Hearing:	Mr. Tanveer Ahmed, Resident Director (Authorized Representative)

ORDER

UNDER SECTION 106 OF THE SECURITIES ACT, 2015

This Order shall dispose of the proceedings initiated against Director of Crescent Star Insurance Company Limited (**the Company**) through Show Cause Notice No. 2(338)SMD/Adj-1/2022-584 dated March 29, 2022 (**the SCN**) issued under Section 106 of the Securities Act, 2015 (**the Act**) on account of alleged contravention of Section 103 read of the Act read with regulation 3(4) of the Reporting and Disclosure of (Shareholding by Directors, Executive Officers and Substantial Shareholders in Listed Company) Regulations, 2015 (**the Regulations**).

2. Brief facts of the case are that Syed Sarocsh Ahmed (**the Respondent**) was appointed as Independent Director of the Company on April 23, 2021.

3. In terms of Section 103 of the Act read with regulation 3(4) of the Regulations, the Respondent was required to file Form 5 with the Commission, within 7 days of becoming the director of the Company. However, the record available with the Securities and Exchange Commission of Pakistan (**the Commission**) transpires that no compliance was made by the Respondent.

4. The relevant provisions of the law are reproduced as under:

Section 103 of the Act:

"103 - Notification to the Commission of directors and others' interest

(1) Every director, executive officer or substantial shareholder of a listed company shall submit to the Commission in the prescribed form -

(a) a statement of beneficial ownership in the listed equity securities of the company or any other nature of securities as may be prescribed by the Commission;

(b) the particulars of any change in the interest aforesaid; and





SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I Adjudication Division

(c) any change in his position.

(2) The reporting requirement imposed by sub-sections (1) shall be fulfilled before the expiration of a period of seven days beginning with the day on which the requirement first arises.”

Regulation 3(4) of the Regulations:

“3 – Reporting of Beneficial ownership in listed equity securities under Section 101 to Section 103 of the Act ...

(4) The directors, executive officers and substantial shareholders of the equity securities in a listed company shall in accordance with section 103 of the Act submit statement of Beneficial ownership in Form 5 and report any subsequent change therein or position to the Commission on Form 6.”

Section 106 of the Act:

106. Directive by the Commission.—(1) ...

(2) where any person who contravenes or fails to comply with any provision of sections 101, 102, 103, 104, 105 and 107, the Commission may by order in writing direct,—

(a) in the case of an individual, to pay by way of penalty to the Commission such sum which may extend to five hundred thousand rupees and to a further sum which may extend to one thousand rupees per day for every day during which the default continues;”

5. The Commission vide letter dated November 16, 2021 sought explanation from the Respondent with respect to his alleged failure to file Form 5. Mr. Tanveer Ahmed on behalf of the Respondent vide letter dated November 29, 2021 submitted that it is their understanding that directors are required to submit statement to the Commission if they are beneficial owner, since the directors do not fall under this category so they do not require to file the Form 5 or Form 6.

6. In view of the above, the Respondent, *prima facie*, violated Section 103 of the Act read with regulation 3(4) of the Regulations which attracts applicability of the penal provision of Section 106(2)(a) of the Act. Accordingly, the Commission while taking cognizance of the aforementioned non-compliance served the SCN upon the Respondent, requiring him to submit his written reply within 14 days of the date of the SCN.

7. In response to SCN, Mr. Tanveer Ahmed on behalf of the Respondent vide letter dated April 19, 2022 submitted his reply as under:

“...Reference above show cause notices addressed to director Ms. Huma Javed and ex director Mr. Syed Sarosh Ahmed (Mr. Sarosh Ahmed resigned from directorship of the company on 9-11-21, Form-29 filed) requiring them to file Form-5 of their beneficial ownership in the company. Please note that both Ms. Huma Javed and Mr. Syed Sarosh Ahmed do not fall under the category of beneficial owner. Their shareholding in the company is 2,000 shares each which are only qualifying shares for directorship. Section 103 of the Securities Act 2015 states:



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SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I Adjudication Division

103. Notification to the Commission of directors and others' interest.—(1) Every director, executive officer or substantial shareholder of a listed company shall submit to the Commission in the prescribed form -

- (a) a statement of beneficial ownership in the listed equity securities of the company or any other nature of securities as may be prescribed by the Commission;
- (b) the particulars of any change in the interest aforesaid; and
- (c) any change in his position.

Circular 20 of 2018 dated 01-11-2018 defines Ultimate beneficial owner as "natural persons who ultimately own or control the company through direct or indirect ownership of not less than ten (10) percent shares, voting rights, ownership or controlling interest in that company. As per section 103 of the Securities Act 2015, directors are required to file Form-5 to the Commission if are beneficial owner. Since director Ms. Huma Javed and ex-director Syed Sarosh Ahmed do not fall under the category of beneficial owner they were not required to file Form-5 with the Commission."

8. The Respondent was provided opportunity of personal representation and the hearings were fixed in the matter for June 21, 2022, and September 12, 2022 which were not attended by the Respondent. Another hearing was fixed in the matter for November 29, 2022 which was attended by Mr. Tanveer Ahmed, Resident Director (**the Representative**) on behalf of the Respondent. During the course of hearing, the Representative was advised to explain the reasons for the alleged non-compliances, as narrated in the SCN. The Representative reiterated the written arguments and submissions made in the written reply and admitted occurrence of delay in filing Forms 5. He further submitted that the delay occurred due to their understanding that directors are not required to file Form 5 if they are not beneficial owner; however, subsequently, Form 5 has been filed by the Respondent. The Representative requested that a lenient view may be taken in the matter.

9. In response to SCN, Mr. Tanveer Ahmed again on behalf of the Respondent vide letter dated January 03, 2023 submitted his reply as under:

*"...With reference to above show cause notice, reply dated 19-04-2022 and the hearing held on 29-11-2022. In the hearing I reiterated my Stand, that as director of Crescent Star Insurance Limited (CSIL) am not required to submit Form 5 under Section 103 of the Securities Act 2015 as I do not come under the definition of beneficial owner. I own Nil shares of CSIL, as such I am not a beneficial owner and not required to file Form 5. I may further add that I am no longer Director of CSIL as I have resigned from my position on November 9, 2021. However as directed by the Commission during the hearing, I am filing Form 5, copy of filed Form 3 attached.
I request you to close the show cause as compliance as directed has been made."*

10. The Respondent was again provided with the opportunity of personal representation and the hearings in the matter were again fixed for April 10, 2023 and May 18, 2023 after the change of the Authorized Officer, which was not attended by the Respondent, as he submitted the reason that he had already attended the hearing and submitted his submissions for non-filing of Form 5.





SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I Adjudication Division

11. I have gone through the facts of the case and considered the submissions of the Representative both written and verbal in light of the applicable provisions mentioned in the preceding paras and the available record and noted that the Respondent was required to file his returns of beneficial ownership on Forms 5 within seven (07) days of becoming director of the Company as required under Section 103 of the Act read with regulation 3(4) of the Regulations. Further, the admission made by the Respondent with regard to late filing of the required returns on Form 5 to the Commission, is on the record.

12. In view of the foregoing and the verbal submission made by the Respondents, non-compliance/contravention of the provisions Section 103 of the Act read with regulation 3(4) of the Regulations has been established and same has also been admitted by the Representative. Therefore, in exercise of the powers conferred upon me under Section 106(2)(a) of the Act, I hereby impose a penalty of **Rs. 20,000/- (Pak Rupees Twenty Thousand Only)** on the Respondent.

13. The Respondent is directed to deposit the aforesaid penalty in the account of the Commission being maintained with the designated branches of MCB Bank Limited, within a period of thirty (30) days of the announcement of this Order, and furnish original Deposit Challan to this office.

14. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law(s) on matter subsequently investigated or otherwise brought to the knowledge of the Commission.

(Shahzad Afzal Khan)
Director\ Head of Department
(Adjudication Department-I)



Announced:

May 29, 2023
Islamabad