



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I

Adjudication Division

Say No to Corruption

Before

**Hammad Javed, Additional Director/ Head of Wing
(Licensed Entities-Adjudication Department-I)**

In the matter of

SME Leasing Limited

Number and date of Order	SECP/SCD/ADJ-I/30/2021 dated February 22, 2023
Date of Review Application	March 6, 2023
Date(s) of Hearing:	April 18, 2023
Present at the Hearing(s):	1. Mr. Asghar Maqsood, Chief Executive Officer 2. Mr. Khurram Ali, Head of Audit 3. Mr. M. Shahzad, Chief Finance Officer and Company Secretary (Authorized Representatives)

REVIEW ORDER

On Application filed under Section 32B of the Securities and Exchange Commission of Pakistan Act, 1997 against Order dated February 22, 2023

This Order shall dispose of the review application (**the Application**) dated March 6, 2023 filed by SME Leasing Limited (**the Company and or the Respondent**) under Section 32B of the Securities & Exchange Commission of Pakistan Act, 1997 (**SECP Act**) against Order dated February 22, 2023 (**the Order**) passed under regulations 5(a) and 25(1)(a) read with regulation 31 of the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Finance of Terrorism) Regulations, 2020 (**the AML Regulations**), Section 6A(2)(h) of the Anti Money Laundering Act, 2010 (**the AML Act**) and rules 4(1) & 6(1) of the AML/CFT Sanctions Rules, 2020 (**the AML Rules**).

2. Thereof, in terms of the said order, a penalty of Rs. 150,000/- was imposed on the Company for contravention of regulations 5(a) and 25(1)(a) of the AML Regulations.

3. The Respondent submitted a review application dated March 6, 2023 against the said order, the relevant extract of which is provided as under:

".....we would like to request the Honorable Commission to waive the penalty considering the fact that despite our meagre resources we believe in complying with all the applicable rules and regulations as a responsible public listed company.

You will appreciate the fact that during the Covid period, neither the Board of our Parent Company i.e. SME Bank was complete due to non-nomination of its members by the Ministry of Finance nor there was any Head of Internal Audit in our company nevertheless we made every endeavor to ensure compliance with the regulatory framework.

Now when the Board is properly constituted with members having diverse exposure in their fields of Law, Accountancy, Compliance, Management etc. and the full fledged Head of Internal Audit and Compliance in place, we are meticulously adhering to the AML regulations among others....."



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4. In order to provide opportunity of personal representation; hearing in the matter was fixed for April 18, 2023 which was attended by Mr. Asghar Maqsood, Chief Executive Officer; Mr. Khurram Ali, Head of Internal Audit; and Mr. M. Shahzad, Chief Finance Officer and Company Secretary, as Authorized Representatives (**the Representatives**) on behalf of the Company. The Representatives reiterated the stance taken in review application and submitted as under:

- I. The issue of Old NIC of the customer was promptly taken up with the National Database and Registration Authority (NADRA) when the matter was first raised by the inspection team during the onsite review. After receipt of the reply from NADRA, the NICs were replaced with CNICs in the database and the same was informed to the Commission vide email dated January 17, 2023.
- II. Regarding the automation of system to screen the identities of the proscribed persons, the Company is using ALMANAC software system (being used in so many DFIs and NBFIs as well), which automatically checks the names/CNICs of proscribed persons once such particulars are entered in the system. This screening confirms to the requirements of AML Act and AML Regulations, however, at the time of onsite inspection, they were under the impression that the system should automatically pick the identity of proscribed person from the website without any manual interaction, which is not the requirement of the AML Act and regulations.
- III. In view of the above, the request was made to waive off the penalty levied by the Commission particularly keeping in view the financial position of the Company and the decision by the Federal Cabinet to wind up their parent company i.e. SME Bank Limited which is its lender of last resort.

The above submissions were subsequently reiterated by the Respondent vide their letter dated April 28, 2023.

5. I have examined the facts of the case and the written submissions made by the Company in review application dated March 06, 2023 and subsequent letter dated April 28, 2023 alongwith verbal assertions made during the hearing held on April 18, 2023 and have observed: -

- I. that the Respondent's understanding that its automated system should pick identity of proscribed person(s) from the website without any manual interaction was not correct as there is no such requirement in the AML legal and regulatory framework. Further, the Representatives, during the hearing, cited lack of technical knowledge as reason for this misunderstanding at the end of the Respondent. Thus, the subsequent clarification given by the Respondent that it is using a software system that automatically screens/checks the names/CNICs of proscribed persons once such particulars/details are entered in the system is accepted.
- II. that the Respondent's stance on the database lacking updated CNIC information for old clients that such clients were either inactive and their leases had been matured/terminated, or had defaulted, or were in litigation with the Company, was already admitted. Further, the Representatives during the hearing of April 18, 2023 and the Respondent vide letter dated April 28, 2023 submitted that the issue of Old NIC of the customer was promptly taken up with the National Database and Registration Authority (NADRA), upon receipt of whose reply the NICs were replaced with CNICs in the database. The same has been informed to the Commission vide correspondence dated January 17, 2023.
- III. that the Respondent informed that the Federal Cabinet has recently decided to wind up the parent

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company of the Respondent i.e. SME Bank Limited is also considered.

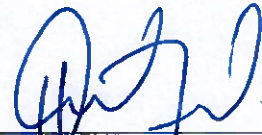
However, the conclusion drawn in the Order dated February 22, 2023 that the Respondent's and its representative's claim that although the Risk Management Committee had already developed and finalized the AML policy in December 2020 but this could not be presented and approved by its Board cannot be considered as a plausible justification is upheld. The fact that the AML Regulations came into force at once upon being notified on September 28, 2020 and the Respondent being a Regulated Entity, was required to have the AML policy, duly approved by its Board holds significance. Further, the Representative's statement that board meetings were held during this time with other pressing issues, in itself is an admitted position exhibiting that either the significance of a board approved AML policy was not realized or the AML policy had not been developed and finalized till then. Moreover, neither the Respondent's stance vide review application dated March 06, 2023 and subsequent letter dated April 28, 2023 nor any of the arguments given by its Representatives during the hearing of April 18, 2023 could justify the contravention of regulation 5(a) of the AML Regulations, therefore, the obvious delay of over two years by the Respondent in approving and adopting / implementing the AML policy is established.

In view of the foregoing, I hereby, in terms of powers conferred under Section 32B of the SECP Act, have decided to reduce the amount of penalty to **Rs. 80,000/- (Rupees Eighty Thousand Only)** imposed in terms of Section 6A(2)(h) of the AML Act read with rule 4(1) and 6(1) of the AML Rules vide order dated February 22, 2023.

6. The Respondent is directed to deposit the aforesaid penalty in the account of the Commission being maintained in the designated branches of MCB Bank Limited within 30 days of the date of this Order and furnish Original Deposit Challan to this office.

7. The Respondent is also advised to meticulously adhere to all applicable Laws, Rules, Regulations and Directions etc. notified/issued from time to time relating to anti-money laundering and countering finance of terrorism in true letter and spirit at all times.

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



(Hammad Javed)

Additional Director / Head of Wing
Licensed Entities - Adjudication Department-I

Announced:

June 19, 2023
Islamabad