



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Through Courier

Before Mr. Amir M. Khan Afridi, Director/ HoD (Adjudication-1)

In the matter of Show Cause Notice issued to Enrichers (Pvt.) Limited under Section 6(A)(2)(h) of the Anti-Money Laundering Act, 2010 read with rule 4(1) and 6(1) of the AML/CFT Sanctions Rules, 2020 and regulation 31 of the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2020.

Date of Hearing	June 20, 2022
Present at the Hearing Representing the Company	Mr. Muhammad Hassan Mehmood (Chief Executive Officer)

ORDER

This Order shall dispose of proceedings initiated against Enrichers (Pvt.) Limited (**the Company or the Respondent**) through Show Cause Notice No. 1(2)SMD/Adj-1/PMEX/2018 dated May 06, 2021 (the SCN) under Section 6(A)(2)(h) of the Anti-Money Laundering Act, 2010 (the AML Act) read with rule 4(1) of the AML/CFT Sanctions Rules, 2020 (**the Sanctions Rules**) and regulation 31 of the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2020 (**the AML Regulations**).

2. Brief facts of the case are that the Company is a Futures Broker of the Pakistan Mercantile Exchange (**PMEX**) and a regulated person in terms of regulation 3 of the Futures Broker (Licensing & Operations) Regulations, 2018 read with sub-sections 8 and 10 of Section 123 of the Futures Act, 2016.

3. The Securities and Exchange Commission of Pakistan (**the Commission**) under Section 6(A) of the AML Act issued Statutory Regulatory Order No. 920(I)/2020 dated September 28, 2020 (**the SRO**) which states that:

“Compliance report on Statutory Regulatory Orders issued by the Ministry of Foreign Affairs under United Nations (Security Council) Act, 1948 or intimation from National Counter Terrorism Authority /Law Enforcement Agencies/Home Departments of Provinces/Ministry of Interior regarding updates in the list of proscribed person(s)/entity(ies) under the Anti-Terrorism Act, 1997, shall be submitted to the Commission within forty eight (48) hours of receiving the same in the manner as may be instructed from time to time by the Commission.”

4. Review of the Company conducted during the period from October 01, 2020 to January 15, 2021 transpired that the Company has failed to submit any of the required compliance reports in response to the SRO(s) issued by the Ministry of Interior (**the MoI**), Ministry of Foreign Affairs (**the MoFA**), National Counter Terrorism Authority (**the NACTA**), etc. within 48 hours of receiving the same and intimation through the Commission's automated reporting system i.e. SECP's eService's Portal.





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5. The SRO also provides that, "any person to whom this directive applies and who contravenes or fails to comply with the requirements of this directive or submits a return which is false in a material respect or whereunder, a misstatement is made shall be liable to sanction in accordance with the Sanctions Rules, 2020 issued under the AML Act, and imposed by the Commission according to Section 6A of the AML Act."

6. Non-submission of the Compliance Report referred to in para 4 above is non-compliance of clause D of the SRO as well as regulations 25 of the AML Regulations which is reproduced as under:

Regulations 25 of the AML Regulations 2020:

"(1) The regulated person shall undertake TFS obligations under the United Nations (Security Council) Act 1948 and/or Anti-Terrorism Act 1997 and any regulations made there under, including:

(a) develop mechanisms, processes and procedures for screening and monitoring customers, potential customers and beneficial owners/associates of customers to detect any matches or potential matches with the stated designated/proscribed persons in the SROs and notifications issued by MOFA, NACTA and MOI."

7. The aforesaid violations attract applicability of regulation 31 of the AML Regulations, rule 4(1) of the AML/CFT Sanctions Rules, and Section 6(A)(2)(h) of the AML Act, which are reproduced as under:

Regulations 31 of the AML Regulations:

"(1) Any contravention of these regulations shall be cognizable by the Commission in accordance with section 6A of the AML Act and liable to sanction provided in the AML/CFT Sanctions Rules, 2020 and imposed by the Commission according to Clause (h) of Sub-section (2) of Section 6A of AML Act."

Rules 4(1) of the Sanction Rules:

(1) On any contravention as set out in rule 3(2), any or all of the following sanctions may be imposed by the concerned AML/CFT Regulatory Authority, namely:-

(a) Impose a monetary penalty in accordance with these Rules;

(b) impose any condition, limitation or restriction on the reporting entity's business or product offerings, as it considers appropriate,

(c) Revoke license or de-registration of the reporting entities as applicable;

(d) Impose a temporary or permanent prohibition on any natural person who holds an office or position involving responsibility for taking decisions about the management of the reporting entity, including but not limited to:

(i) issuing a written warning;

(ii) imposing a temporary suspension; or

(iii) removal from service.

(e) Issue a statement of censure/warning/reprimand;

(f) Issue a direction to the person to undertake any given actions, including but not limited to:

(i) comply with the requirements within a specified time period through a remedial plan;

(ii) conduct internal inquiries; or

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- (iii) take disciplinary action against directors, senior management and other officers.
(g) Impose any other sanction permitted under the AML/CFT Regulatory Authority's enabling legislation and any rules, regulations or directives issued thereunder."

Rules 6(1) of the Sanction Rules:

"(1) The AML/CFT Regulatory Authority shall apply monetary penalties upto Rs.100 Million per violation, in accordance with the risk-based penalty scale of the respective AML/CFT Regulatory Authority."

Section 6(A)(2)(h) of the AML Act:

"(h) impose sanctions, including monetary and administrative penalties to the extent and in the manners as may be prescribed, upon their respective reporting entity, including its directors and senior management and officers, who violates any requirement in section 7(1), 7(3) to 7(6) and 7A to 7H and any rules or regulations made thereunder or those who fail to comply with the TFS regulations. Any person aggrieved by the imposition of sanctions under this clause may prefer an appeal in such manner and within such period to such authority as may be prescribed,"

8. In view of the above, it was observed that the Company failed to comply with the SRO and the AML Regulations. The Commission, therefore, while taking cognizance of the aforesaid violations, served the SCN to the Company. The Company submitted its written response vide letter dated June 20, 2022 on the date of hearing.

9. The Company was accorded hearing opportunity on June 20, 2022 which was attended by Mr. Ghayyur Hassan (Compliance Officer) as Authorized Representative (**the Representative**) on behalf of the Company. The Representative was advised to explain the reason for not submitting the Compliance Report in respect of compliance with the SRO(s)/ notifications, as mentioned in the SCN. The Representative, among other reasons, submitted that due to change in address of the Company and the Covid-19 pandemic certain documents could not be submitted in due time. Further, the Representative submitted that PMEX, the frontline regulator for Futures Brokers, requires the Respondent to file various compliance reports on quarterly, bi-annually, yearly basis as warranted under the Regulations which were duly submitted by the Respondent. Further, the Representative draw reference from regulation 26(5) of the Regulations which provides that the regulated person shall provide, upon request, from the Commission, investigating or prosecuting agency and FMU, any record within 48 hours after the request has been made or such time as may be instructed by the relevant authority. In this regard, the Respondent submitted that no relevant authority ever instructed or required the Respondent to submit the requisite information within 48 hours in pursuance to regulation 26(5) of the SRO.

10. I have considered the submissions made by the Company and its Representative and of the view that the Company has not submitted the compliance reports upon receiving the SROs/ notification issued by MOFA, NACTA and MoI during the aforesaid review period. In this regard, the SRO clearly states that compliance report on SRO(s) by the relevant authorities shall be submitted to the Commission within forty-eight (48) hours of receiving the same in the manner as may be instructed by the Commission i.e. to be submitted on the e-services portal of the Commission. Therefore, no further instruction/ direction was needed to be provided by the Commission. However, the Respondent still failed to comply with the SRO and did not submit any of the compliance reports with respect to the SRO(s) issued by the relevant

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authorities, till the date of hearing. Such negligence on part of the Respondent to comply with the relevant laws particularly with reference to the AML regulatory regime cannot be ignored.

11. In view of the foregoing and admission made by the Representative, contraventions of the SRO read with regulation 25 of the AML Regulations, have been established. Therefore, I, in terms of the powers conferred under Section 6(A)(2)(h) of the AML Act read with rules 4(1) and 6(1) of the Rules, hereby impose a penalty of **Rs. 100,000 (Rupees One Hundred Thousand Only)** on the Respondent.

12. 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 date this Order and furnish the original deposit challan to this Office.

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



(Amir M. Khan Afridi)
Director/ HoD – Adj -1

Announced on July 26, 2022
Islamabad