



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

*Through Courier*

*Before*

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

*In the matter of*

**Shaheen Insurance Company Limited**

Show Cause Notice No. & Issue Date: ID/Enf/Shahveen/2019  
May 5, 2023

Date of Hearing: June 27, 2023

Present at the Hearing: Mr. Rizwan Akhtar (Chief Executive Officer)  
Mr. Nisar Ahmed Almani (Chief Financial Officer)  
Mr. Danish Khalid (Compliance Officer)  
(*Authorized Representatives*)

## **ORDER**

**Show Cause Notice under rule 4(2) of the Credit and Suretyship (Conduct of Business) Rules, 2018 read with Section 156 of the Insurance Ordinance, 2000**

This Order shall dispose of the proceedings initiated against **Shaheen Insurance Company Limited (the Company and/or the Respondent)** under rule 4(2) of the Credit and Suretyship (Conduct of Business) Rules, 2018 (**the Suretyship Rules**) read with Section 156 of the Insurance Ordinance, 2000 (**the Ordinance**) vide Show-Cause Notice No. ID/Enf/Shahveen/2019 dated May 5, 2023 (**the SCN**).

2. The Company is registered under the Ordinance to undertake the non-life insurance business in Pakistan. During offsite examination of the Company's Annual Audited Accounts and Regulatory Returns for the year ended December 31, 2021 (**FY 2021**), it has been noted that the Company, prima facie, has violated the requirements of rule 4(2) of the CS Rules (**the Suretyship Rules**) by not procuring the adequate collateral in case of guarantees/ bonds policies of an amount equal to at least 80% of sum insured / amount of bond / guarantee less reinsurance.

3. Rule 4(2) of the Suretyship Rules requires that an insurer shall procure collateral in case of guarantees/ bonds of an amount equal to at least 80% of the sum insured / amount of bond/ guarantee less reinsurance in respect of a particular guarantee / bond. However, as per the Statement of Credit and Suretyship Business of the Company for FY 2021, the Company has issued a total of twenty-three (23) policies but has failed to procure adequate collateral on 22 policies. The required collateral amount for the issued policies is Rs. 47.17 million; however, the Company has obtained only an amount of Rs. 8.14 million as collateral and resultantly, the deficiency in the required amount of collateral comes out to be Rs. 39.03 million, as shown in the working given below:



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<b>Description</b>	<b>Rs. (Million)</b>
<i>Total Amount of bond/ guarantee for all 23 policies</i>	304.92
<i>Less: Ceded to Reinsurer</i>	-245.96
<i>Net Balance</i>	58.96
<i>Required Collateral (Net balance x 80%)</i>	47.17
<i>Less: collateral obtained</i>	-8.14
<i>Deficiency in Required Amount of Collateral</i>	(39.03)

4. The aforesaid matter was taken up with the Company vide email dated March 29, 2023. The Company vide email dated April 17, 2023 submitted its reply in the matter as under:

*"... the Company has substantially covered its risk through reinsurance arrangement; however, slight deviation of Rs 39.03 million was considered insignificant in the wake of worsening sheer competitive market situation."*

5. The aforesaid stance of the Company was not considered as cogent as the amount of deficient collateral being 82.74% of the required collateral cannot be stated as insignificant or immaterial. Moreover, immateriality of deficient collateral cannot be considered as valid justification for non-compliance with mandatory requirements of the law.

6. In view of the above, the Company, prima facie, has failed to procure collateral as required under rule 4(2) of the Suretyship Rules, which attracts penal provisions contained in Section 156 of the Ordinance.

7. Rule 4(1) of the Suretyship Rules requires that an insurer's net retained exposure under any type of guarantee / bond issued by it to a party or a group shall not exceed 2.5 percent of the insurer's shareholders' equity; however, it has been noted during review of the aforesaid Statement that the Company's net retained exposure in respect of bond/ guarantee issued to an identified client with aggregate value of Rs. 22 million, exceeds maximum limit of 2.5% of Equity as at Dec. 31, 2021 i.e. (Equity i.e. Rs. 687.227 million x 2.5% = Rs. 17.181 million).

8. The aforesaid matter was taken up with the Company vide email dated March 29, 2023. The Company responded vide email dated April 17, 2023 as under:

*"... It is submitted that identified client is one of the company's oldest valuable client, which has never defaulted against various performance bonds / guarantees issued during previous periods. This one-off instance was due to human oversight in the wake of accumulation of policies over a period of time, which may kindly be condoned. We may apprise you that all performance bonds in question have already expired and that the Company's exposure has reduced to Nil during the year 2022"*

9. It is evident from the aforesaid response that the Company, prima facie, has violated the provisions of rule 4(1) of the Suretyship Rules, which attracts penal provisions contained in Section 156 of the Ordinance.

10. It is noted that the Company has not submitted complete set of the Statements of Credit and Suretyship business, duly audited by external auditors, as required by rule 6 of the Suretyship Rules read with Section 46(1) of the Ordinance. The Company has submitted only unaudited Statement of Credit and Suretyship Business for the year ended on December 31, 2021 as well as Statement of Claims as at December 31, 2021. However, the Statements of Credit and Suretyship Business "as at" December 31, 2021 and Statement of Claims "for the year" ended on December 31, 2021 have not been submitted.



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11. When the aforesaid matter was taken up with the Company vide email dated March 29, 2023, the Company vide email dated April 17, 2023 submitted its reply as under:

*"...for Credit and Suretyship Regulatory Returns as of December 31, 2021, it is requested to grant extension in time up to May 05, 2023 for submitting the same*

12. It is evident from the response of the Company that the Company has failed to prepare and submit complete and audited set of the Statements of Credit and Suretyship Business within due date.

13. In view of the above, the Company, prima facie, has committed violation of rule 6 of the Suretyship Rules read with Section 46(1) of the Ordinance, which attracts penal provisions contained in Section 156 of the Ordinance.

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

### **Rule 4(1) of the Suretyship Rules:**

*An insurer's net retained exposure under any type of guarantee / bond issued by the insurer to a party or a group shall not exceed 2.5 percent of the insurer's shareholders' equity as per the latest available audited accounts of the insurer on the date of issuance of a guarantee/bond.*

### **Rule 4(2) of the Suretyship Rules:**

*(2) Subject to limit prescribed under sub-rule (1), an insurer shall procure collateral in case of guarantees / bonds of an amount equivalent to at least 80% of sum insured / amount of bond/ guarantee less reinsurance in respect of a particular guarantee /bond.*

### **Rule 6 of the Suretyship Rules:**

*Additional Returns:- (1) Every insurer offering a guarantee/ bond in a particular financial year, shall be required to submit the statements, for each such financial year, along with the regulatory returns to be filed in pursuance of section 46 of the Ordinance, in the appropriate form set out in the Form GCS in the Annexure hereto in addition to the returns to be lodged under section 46 of the Ordinance and / or any other section of the Ordinance or rule made thereunder.*

### **Section 156 of the Ordinance:**

*Penalty for default in complying with, or acting in contravention of this Ordinance. Except as otherwise provided in this Ordinance, any insurer who makes default in complying with or acts in contravention of any requirement of this Ordinance, or any direction made by the Commission, the Commission shall have the power to impose fine on the insurer and, where the insurer is a company, any director, or other officer of the company, who is knowingly a party to the default, shall be punishable with fine which may extend to one million rupees and, in the case of a continuing default, with an additional fine which may extend to ten thousand rupees for every day during which the default continues.*

15. In response to the SCN, the Company vide letter dated June 26, 2023 submitted its reply, the relevant extracts of which are reproduced as under:

### **a) "Rule 4(2) of the Suretyship Rules**

*Shaheen Insurance is doing bond business with utmost care and under its prudent underwriting policy. We evaluate the risk / requirement of insurance guarantee under the perspective of financial/ technical strength of contractors. Most of the contractors are our clients since many years; however, for any new contractor to be inducted on our client list, we obtain following to evaluate its worthiness;*

- 1. Latest company profile including technical support and projects executed history.*
- 2. Financial statements/bank statements bank certificates.*



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*It is respectfully submitted that our market / competitors is operating in this class of business either on very low cash margins or no margins at all. Further, for small time period (less than six months) contracts, clients are unwilling to place any cash margins or other recognizable collaterals. In the wake of above constraints, company has to underwrite the bond / surety business either with low cash margins or cash margins. We try our utmost to get the maximum recognizable collaterals including cash margins; however, some time we succeed and sometime not.*

*You will appreciate that in most of the cases we obtained cash margins, although small amounts. We obtained cash margins against 21 policies out of 23 total policies in question.*

*It is further submitted the Company also obtained undated cheques / promissory notes / counter guarantees as an additional security, over and above the main collateral i.e. cash margins; to secure payments in default situation. We may also respectfully submit that this is in line with the industry practice, and in the backdrop of hardships faced by small companies like Shaheen Insurance for procuring business.*

*We may respectfully submit that in consideration of our above submissions, a lenient view may please be taken for this violation due to market practice; which may kindly be condoned, being unintentional.*

**b) Rule 4(1) of the Suretyship Rules**

*We would respectfully reiterate that identified client is one of the company's oldest valuable client, which has never defaulted against various performance bonds/guarantees issued during previous periods. This one-off instance was due to human oversight in the wake of accumulation of policies over a period of time, which may kindly be condoned. We may apprise you that all performance bonds in question has already expired, and that the Company's exposure has reduced to Nil during the year 2022. We may further add that 4 bonds out of 5 issued to identified client were of short duration (up to six months) for the same project. We should have retained one retention of Rs 5 Million; however, due to inadvertent oversight we kept four retentions (Rs 17 Million).*

*We may respectfully submit that in consideration of our inadvertent oversight, a lenient view may please be taken and violations may kindly be condoned, being unintentional.*

**c) Rule 6 of the Suretyship Rules**

*It is submitted that the Company has filed all the audited statements of Credit and Suretyship business for the year ended December 31, 2021 and as of December 31, 2021; however, only audited Statement of Credit and Suretyship Class of Business as of December 31, 2021 could not be submitted due to human oversight, for which subsequent compliance has been made. Further, Statement of Claims "as at." and "for the year" ended December 31, 2021 remain the same.*

*In view of the above submissions, it is requested that a lenient; view may please be taken and these inadvertent violations be condoned, being unintentional.*

*In the meantime, we assure you that every possible step will be taken to avoid such occurrence in future."*

16. In order to provide the Respondent an opportunity of personal representation, hearing in the matter was fixed for June 27, 2023, wherein Mr. Rizwan Akhtar (Chief Executive Officer) Mr. Nisar Ahmed Almani (Chief Financial Officer) Mr. Danish Khalid (Compliance Officer) appeared as the Authorized Representatives of the Respondent (**the Representatives**). During the hearing, the Representatives were advised to explain the reasons for the alleged non-compliance, as narrated in the SCN. The Representatives reiterated the submissions already made in the written reply dated June 26, 2023. The Representatives were advised to submit the Statement of



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Credit and Suretyship Business "as at" December 31, 2021 and Statement of Claims "for the year" ended on December 31, 2021, which were not filed as part of the Regulatory Returns in respect of Credit and Suretyship Business of the Company for FY 2021. The Company vide letter dated July 12, 2023 furnished the said Statements in respect of Credit and Suretyship Business.

17. Subsequent to the hearing, the Company vide reply dated July 3, 2023 made further submissions in the matter as under:

*"Please refer to our earlier letter bearing reference no. SICL/Comp/2023/3294 dated June 26, 2023 and subsequent hearing held on June 27, 2023 on the subject matter. In furtherance to our earlier submissions, it is respectfully stated that Shaheen Insurance Company Limited (SICL) is substantially (approx. 73%) owned by Shaheen Foundation and associates (SF). Shaheen Foundation was established under Charitable Endowment Act, 1980 to promote welfare activities including scholarship for eligible children, compensation for death/permanent disability during service, provision of financial and medical grants at the time of need, and many other such welfare activities. SICL being part of SF is also contributing its share to the aforementioned worthy virtues.*

*We therefore respectfully request that in consideration of our inadvertent oversights, our abovementioned and earlier submissions, a lenient view may please be taken and violations may kindly be condoned, being unintentional.*

*In the meantime, we assure you that every possible step will be taken to avoid such circumstances in future."*

18. I have examined the facts of the case in light of the applicable provisions of the law and the written as well as verbal submissions and arguments of the Respondent and its Representatives and have observed as under:

- (a) The Company has stated that slight deficiency of Rs 39.03 million in required amount of collateral was considered as insignificant in wake of worsening sheer competitive market situation. However, the stance of the Company is not plausible as the amount of deficient collateral constitutes 82.74% of the required collateral amount, which is neither insignificant nor immaterial. As far as submissions of the Company that it has substantially covered its risk through reinsurance arrangement are concerned, it may be noted that reinsurance arrangement, if any is in place, can in no way be a substitute to an adequate and effective collateral, which is required to be obtained in terms of rule 4(2) of the Rules in respect each guarantee or bond issued by an insurer. The Company has stated that clients are not willing to place any cash margins or other admissible collaterals for contracts of small time period. It has been added in the reply that the Company also obtained undated cheques and promissory notes over and above cash margins in order to secure payment in the event of default. However, in this regard, it needs to be noted that promissory notes and undated cheques or post-dated cheques are not admissible collateral in terms of rule 2(1)(b) of the Rules; hence, the same cannot be accepted as collateral by an insurer undertaking credit and suretyship business. The Company has further submitted that "a lenient view may please be taken for this violation due to market practice; which may kindly be condoned, being unintentional". In view of the foregoing facts, it is established that the Company has violated the provisions of rule 4(2) of the Rules.
- (b) Regarding alleged non-compliance of rule 4(1) of the Rules due to the fact that net retained exposure in respect of an identified client is in excess of 2.5 percent of the Company's shareholders' equity, the Company has admitted that the identified case of its client occurred due to "human oversight" in wake of accumulation of policies over a period of time, which may be condoned. The Company has added that all the performance bonds in question have already expired, reducing its exposure to "Nil" during the year 2022. The Company has requested that "in consideration of our inadvertent oversight, a lenient view may please be taken and violations may kindly be condoned". Therefore, the Company has failed to ensure compliance with rule 4(1) of the Rules.



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- (c) Regarding the observation on non-filing of identified statements in respect of its Credit and Suretyship Business, the Company has admitted that both the Statements were not filed within due date and the same were submitted subsequently. As per the record, the Company has submitted both of these Statement vide letter dated July 12, 2023. Therefore, violation of rule 6 of the Rules is established.

19. Keeping in view the aforesaid contraventions/ non-compliances, I, in exercise of the powers conferred under Section 156 of the Ordinance and other enabling provision of the law, hereby impose an aggregate penalty of **Rs. 200,000/- (Rupees Two Hundred Thousand Only)** on the Company.

20. The Company is hereby directed to deposit the aforesaid penalty in the designated Bank Account maintained in the name of the Securities and Exchange Commission of Pakistan with MCB Bank Limited or United Bank Limited within thirty (30) days of the date of this Order and furnish receipted voucher evidencing payment of the same.

21. 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.

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

**Announced:**  
October 19, 2023  
Islamabad