

Before Amina Aziz, Director/HOW (Adjudication-I)

In the matter of Show Cause Notice issued to Akhuwat Islamic Microfinance

Dates of Hearing

September 28, 2022

Order-Redacted Version

Order dated December 16, 2022 was passed by Director/Head of Wing (Adjudication-I) in the matter of Akhuwat Islamic Microfinance. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show Cause notice dated May 27, 2022.
2. Name of Respondent(s)	Akhuwat Islamic Microfinance, (the Company and/ or the Respondent)
3. Nature of Offence	Alleged contraventions of <u>Regulations 25(l)(a) & 5(b) read with Regulation 31 of Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2020 (the AML Regulations); Rules 4(1) & 6(1) of the AML/CFT Sanction Rules, 2020 (the AML Rules); and Section 6A(2)(h) of the Anti-Money Laundering Act, 2010 (the AML Act).</u>
4. Action Taken	<p>Key findings were reported in the following manner:</p> <p>I have reviewed the facts of the case in light of the applicable provisions of the law and has given due consideration to the written submissions and verbal arguments of the Respondent and its Representatives and is of view that observed that:</p> <p>(i) Completeness of the proscribed person list is vital for an effective and reliable screening mechanism. Regulation 25 of the AML Regulations requires the regulated persons to develop mechanism, processes and procedures for screening and monitoring of customers / potential customers and their beneficial owners/associates against the proscribed persons. And if the list of the proscribed persons maintained with a regulated person is incomplete and or has some deficient information, then how does the screening process can be effective and accurate? Thus, for an effective screening mechanism, maintaining a complete and accurate proscribed person list is equally important as maintaining the customer database.</p> <p>(ii) Moreover, the Respondent's assertions that their MIS doesn't have a feature to record the CNIC number other than 13 digits number and since these three (3) proscribed persons (as highlighted by the Inspection team) have unusual CNIC numbers, therefore, the same could not be recorded/inputted in the proscribed list maintained in</p>

MIS, is itself an admission by the Respondent that the proscribed persons list maintained by the Company was incomplete and deficient.

- (iii) It is appreciable that subsequently, the Respondent updated its MIS to accommodate entering unusual CNIC numbers in the system and the three (3) proscribed persons (as identified by the Inspection Team) have been inputted into the MIS. Further, no match has been found on screening the customers against these Proscribed persons. However, the Proscribed person list maintained with the Company during the review period of the Inspection was incomplete in respect of three (3) proscribed persons.
- (iv) With regard to the missing detail of the beneficiary of one customer randomly selected from the sample of twelve (12) Account Opening Forms; the Representative submitted that the information pertaining to the highlighted customer shared with the Inspection team did not include the detail of beneficiary as Item No. 26 in the IRM only requested information pertaining to the customers, not to the beneficiaries of the customer. Whereas the inspection team via IRM required the database of all the customers, and during the onsite-site visit of the Company the inspection team repeatedly advised the Company to provide the complete information. The Respondent should have provided a complete database of customers and beneficiaries during the inspection or with its comments on LOF. Furthermore, the beneficiary detail is not even been provided by the Respondent while submitting its response to SCN. therefore, the Respondent's stance that IRM required the information only for the customers and not for the beneficiaries is not plausible.
- (v) With regard to the non-availability of searching options/fields through key identity parameters other than CMC numbers, in the software utility used for screening purposes (i.e. user can only search through CNIC numbers); the Respondent's submission that *"in the spirit of good faith, the Company has updated its software to allow for search by Name, Father 's Name and Province"* is itself an admission to the said observation. It is agreed that NADRA CNIC number is an effective method for searching for individuals in the database, however, in a scenario where CNIC numbers are not available in the Proscribed person list, (like NACTA list of Proscribed persons dated February 14, 2022, contained 62 entries which didn't have CNIC numbers mentioned against them) then the screening of such proscribed persons is only possible through other key parameters such as Name, Father's Name, Addresses, etc. This implies that whenever a list of Proscribed persons issued without CNICs or with unusual CNICs numbers, the Respondent could not be able to screen its customer database due to non-availability of search options through other identity parameters. Therefore, the availability of searching options through all the key identity parameters including name, CNIC Numbers, addresses, location, and

	<p>fathers'/husbands' names, in the software utility used for screening, is equally important for screening of clients against the proscribed persons.</p> <p>(vi) With regard to the updation of AML/CFT policy, the Respondent in terms of Regulation 5(b) of the AML Regulations was required to monitor and implement its AML/CFT Policies and controls and procedures and to <u>enhance them</u>, if required. It is pertinent to mention that the AML/CFT Policy of the Respondent was not updated since December 2018, whereas, AML, AML/CFT Regulations have been amended and revised many times since its promulgation in September 2018 and many key parameters related to AML/CFT Regulations have been introduced. Further, in September 2020 another version of AML/CFT Regulations was issued which was required to be implemented by the Respondent in its true letter and spirit. <u>The AML/CFT policy and procedures of the Respondent were the same as of December 2018 and have not been up dated/enhanced as per the new requirements of the Law till it is highlighted by the Inspection team.</u> It is worth mentioning that earlier the Commission vide its Order dated April 21, 2020 directed the respondent to undertake a comprehensive review of its AML/CFT policies and procedures to align the same with the regulatory requirement within three (3) months. Now the Respondent has updated its AML / CFT policy as on March 31, 2022.</p> <p>In view of the above, the MIS / database of the Company was deficient in respect of details of three (3) Proscribed Persons, beneficiary detail of one (1) customer selected on sample bases and non-availability of searching options through key identity parameter other than CNIC in the software utility used for screening, which create doubts on the authenticity of the screening mechanism of the Company. Hence, the Company was exposed to the risk of forming relationships with associates of the proscribed persons, moreover, the Company also failed to update its AML/CFT policy for more than three years' time despite of having amendments and introduction of many key parameters related to AML/ CFT laws. Thus, violation of regulations 25(1)(a) and 5(b) of the AML Regulation is established. Therefore, the Company is liable to be penalized under regulation 31 of the AML Regulations; rules 4(1) & 6(1) of the AML Rules; and Section 6A(2)(h) of the AML Act. Hence, in exercise of the powers conferred under Section 6A(2)(h) of the AML Act, I hereby, impose a fine of Rs. 60,000/- (Rupees; <u>Sixty Thousand Only</u>) on the Company on account of the aforesaid conceded and established non-compliances of the AML Regulations.</p>
5. Penalty Imposed	Rs. 60,000/-
6. Current Status of Order	Penalty Deposited and No Appeal has been filed by the respondents.