



SECP
INSURANCE DIVISION
Islamabad

Before Shaukat Hussain, Commissioner (Insurance)

In the matter of

East West Insurance Company Limited

Show Cause Notice No. and ID/Erf/EastWest/2019/802
Issue Date: dated May 27, 2019

Date of Hearing: July 11, 2019

Attended By:

1. Mr. Shabbir Ali Kanchwala, Director Finance
M/s. East West Insurance Company Limited
2. Mr. Imran Ali Dodani, Director Legal
M/s. East West Insurance Company Limited
3. Mr. Johry Lal, Chief Internal Auditor
M/s. East West Insurance Company Limited

Date of Order: July 29, 2019

ORDER

Under S.R.O. 245 (I)/2019 read with Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997

.....

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the "Commission") against M/s. East West Insurance Company Limited (the "Company"), its Chief Executive and Directors for alleged contravention of S.R.O. 245 (I)/2019 (the "directive"). The Company and its Directors shall be collectively referred to as the "Respondents" hereinafter.

2. The Company is registered under the Insurance Ordinance, 2000 (the "Ordinance") to carry on the business of non-life insurance in Pakistan.

3. As per the directive, all regulated persons are required to submit compliance report on statutory regulatory orders issued by the Ministry of Foreign Affairs on United Nations Security Council Resolutions and intimation from the National Counter Terrorism Authority/Ministry of Interior regarding updates in the list of proscribed persons under the Anti-Terrorism Act, 1997, within three days of receiving the same, through email to aml.dept@secp.gov.pk by authorized officer of the regulated person. However, the Company failed to submit the compliance report in three days, in the following instances:-

i. Commission's email dated March 20, 2019 in respect of the National Counter Terrorism Authority (NACTA)'s letter No. F. No. 04/94/2014(Ops)-

SECURITIES AND EXCHANGE
COMMISSION OF PAKISTAN
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63 Jinnah Avenue, Islamabad, Pakistan

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8205 dated March 18, 2019 for 'Legal action regarding persons on the IVth Schedule'. Furthermore, the Commission also issued reminder vide email dated April 10, 2019 to submit the compliance report.

ii. Commission's email dated March 21, 2019 in respect of the National Counter Terrorism Authority (NACTA)'s letter No. F. No. 1/28/2017/DD(Ops & Imp) dated March 19, 2019 for 'Deletion of Persons from the List of IVth Schedule of ATA, 1997 of Khyber Pakhtunkhwa'. Furthermore, the Commission also issued reminder vide email dated April 10, 2019 to submit the compliance report.

iii. Commission's email dated March 21, 2019 in respect direction of the Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa, vide Notification No. SO(POLICE-I)/HD/11-2/2018/Vol-XXIII dated March 13, 2019 for 'retention of person on Schedule IV of Anti Terrorism Act 1997'. Furthermore, the Commission also issued reminder vide email dated April 10, 2019 to submit the compliance report.

iv. Commission's email dated March 25, 2019 in respect direction of the Ministry of Foreign Affairs vide S.R.O 402 (I)/2019 dated March 23, 2019 for 'travel restrictions, arms embargo and to freeze the funds and other financial resources of certain individuals and entities'. Furthermore, the Commission also issued reminder vide email dated April 10, 2019 to submit the compliance report.

v. Commission's email dated April 1, 2019 in respect of 'submission of Compliance report on AMLD list of banned/proscribed entities'. Furthermore, the Commission also issued reminder vide email dated April 10, 2019 to submit the compliance report.

vi. Commission's email dated April 8, 2019 in respect of direction of the Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa, vide Notification No. SO(POLICE-I)/HD/11-2/2017/Vol-XXI dated March 26, 2019 for 'removal of persons from the list of Schedule IV of Anti Terrorism Act, 1997'. Furthermore, the Commission also issued reminder vide email dated April 10, 2019 to submit the compliance report.

vii. Commission's email dated April 10, 2019 in respect of 'submission of compliance report on penal action in case of non-compliance with the notification on UNSCR listing'.

viii. Commission's email dated April 15, 2019 in respect of direction of the Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Notification No. SO(POLICE-I)HD/11-2/2017/Vol-XXI for 'removal of persons from the list of Schedule IV of Anti Terrorism Act, 1997'.

ix. Commission's email dated April 16, 2019 in respect of the Ministry of Foreign Affairs, Islamabad vide SRO No. 407(I)/2019 dated March 23, 2019 regarding 'amendments in 1267 ISIL (Da'esh) Sanctions Committee's List'. Furthermore, the Commission also issued reminder vide email dated April 23, 2019 to submit the compliance report.



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- x. Commission's email dated April 16, 2019 in respect of the National Counter Terrorism Authority (NACTA)'s letter No. F.No. 04/94/2014(Ops)-8205 dated April 12, 2019 for 'legal action regarding persons on IV Schedule'. Furthermore, the Commission also issued reminder vide email dated April 23, 2019 to submit the compliance report.
- xi. Commission's email dated April 23, 2019 in respect of the Ministry of Foreign Affairs SRO No. 471(I)/2019 dated April 18, 2019 regarding 'amendment of one entry from UN 1989 Al-Qaeda/Da'esh Sanctions Committee's List'.
- xii. Commission's email dated May 2, 2019 in respect of the Ministry of Interior's Notification dated April 18, 2019 for 'proscribed organization under First Schedule of the Anti Terrorism Act, 1997'.
- xiii. Commission's email dated May 2, 2019 in respect of the National Counter Terrorism Authority (NACTA)'s letter dated F.No. 04/94/2014(Ops)-8205 dated April 30, 2019 regarding 'retention of the persons in Schedule IV of Anti Terrorism Act, 1997'.
4. In this respect, the Commission issued reminder letter dated May 9, 2019 to the Company to comply with the above-mentioned emails within seven (07) days of the date of receipt of the letter. Moreover, reminder was also sent through email dated May 9, 2019 on the email addresses of the Company i.e. ewire@cyber.net.pk, shabbir.a.kanchwala@eastwestinsurance.com.pk and saeed.ahmed@eastwestinsurance.com.pk However, the Company failed to submit any response to the reminder letter or email dated May 9, 2019 until the date of this Show Cause Notice.
5. The directive dated February 22, 2019 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 material respect or where under a misstatement is made, shall be liable to imposition of penalty under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 (the "Act") , which may extend to ten million rupees and where such contravention is a continuing one, with a further penalty which may extend to one hundred thousand rupees for every day after the first during which such contravention continues.
6. In view of the above, it appeared that the Company failed to comply with S.R.O.245(I)/2019 for which, the Company and its Board of Directors were liable to be penalized under Section 40A of the Act.
7. The directive dated February 22, 2019 state that:

"iii. Compliance report on statutory regulatory orders issued by the Ministry of Foreign Affairs on United Nations Security Council Resolutions and intimation from National Counter Terrorism Authority/Ministry of Interior regarding updates in list of proscribed persons under the Anti-Terrorism Act, 1997, shall be submitted within three days of receiving the same, through email to aml.dept@secp.gov.pk by authorized officer of the Regulated Person.



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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 material respect or where under a misstatement is made shall be liable to imposition of penalty under section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997), which may extend to ten million rupees and where such contravention is a continuing one, with a further penalty which may extend to one hundred thousand rupees for every day after the first during which such contravention continues."

8. Accordingly, a Show Cause Notice (SCN) No. ID/Enf/EastWest/2019/802 dated May 27, 2019 was issued to the Respondents, calling upon them to show cause as to why the fine as provided under Section 40A of the Act should not be imposed on them for the aforementioned alleged contraventions of the law.

9. The Authorized Representative, Mr. Shabbir Ali Kanchwala submitted comments on behalf of the Respondents, vide letter dated June 12, 2019, which are reproduced below:-

"We refer to your Show Cause Notice Ref: ID/Enf/EastWest/2019/802 dated: May 27, 2019 under S.R.O. 245 (I)/2019 read with Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997. On behalf of the Board of Directors and the company we wish to reply as follows:-

1. *The Show Cause Notice has been issued to us under an impression that that we did not reply to various emails sent by the Commission. Whereas, in fact we have replied to all received emails.*

2. *Our compliance officer Mr. Muhammad Hussain, replied mostly emails to the persons from whom the emails mentioned in the show cause notice were received. This was due to the reason that the reply emails were failed to deliver at the requisite email address i.e., aml.dept@secp.gov.pk.*

3. *During the period from receiving the emails and their replies till receiving of subject show cause notice, we were not notified by the officers concerned, department or any other officials that we are reporting incorrectly, which gives us an impression that we had fulfilled the requirement of the law.*

4. *The reminder of the emails contains a line i.e. "if you have already replied to the above email than you may ignore this reminder". Since, we replied the emails within due date and there was no such notification from the department about inappropriate compliance, our compliance officer considered the compliances of the requirements appropriate as per law.*

5. *In para-3 of your show cause notice you have mentioned all such emails where reporting had not been done as per the requirement of S.R.O 245 (I)/2019. Our explanation for each email is as under:*

i. *For the email dated March 20, 2019 and its reminder dated April 10, 2019, regarding the legal action against persons on the IVth Schedule in respect*



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of National Counter Terrorism Authority (NACTA)'s letter No. F.No.04/94/2014(Ops)-8205 dated March 18, 2019, we replied vide our email dated March 21, 2019 to Mr. Ali Hashim Khan Assistant Director....

ii. For the email dated March 21, 2019 and reminder dated April 10, 2019 in respect of the National Counter Terrorism Authority (NACTA)'s letter No. F.No.1/28/2017DD(Ops & Imp) dated March 19, 2019 for 'Deletion of Persons from the List of IVth Schedule of ATA, 1997 of Khyber Pakhtunkhwa', we replied on March 22, 2019 to Mr. Ali Hashim Khan, Assistant Director....

iii. We regret to inform you that we neither received email dated March 21, 2019 nor reminder mentioned in 3(iii) of the show cause notice....

iv. For the email dated March 25, 2019 and reminder dated April 10, 2019 in respect of direction of the Ministry of Foreign Affairs vide S.R.O 402 (I)/2019 dated March 23, 2019 for 'travel restrictions, arms embargo and to freeze the funds and other financial resources of certain individuals and entities', we replied on March 28, 2019 at email address aml.dept@secp.gov.pk....

v. For the email dated April 1, 2019 and reminder dated April 10, 2019 in respect of 'submission of Compliance report on AMLD list of banned/proscribed entities', we replied on April 03, 2019 at email address aml.dept@secp.gov.pk....

vi. For the email dated April 8, 2019 in respect of notification No. SO(POLICE- 1)/HD/11-2/2017Vol-XXI dated March 26, 2019, we replied on April 10, 2019 to Mr. Ali Hashim Khan, Assistant Director....

vii. For the email dated April 10, 2019 in respect of 'submission of Compliance report on penal action in case of non-compliance with the notification of UNSCR listing' we replied on April 12, 2019 to Mr. Ali Hashim Khan, Assistant Director....

viii. For the email dated April 15, 2019 in respect of direction of the Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Notification No. SO(POLICE-I)HD/11-2/2017Vol-XXI for 'removal of persons from the list Schedule IV of Anti Terrorism Act, 1997, we replied on April 22, 2019 to Mr. Usman Khalid, Additional Director IED....

ix. For the email dated April 17, 2019 and reminder dated April 23, 2019 in respect of the Ministry of Foreign Affairs, Islamabad vide S.R.O 407 (I)/2019 dated March 23, 2019 regarding 'amendments in 1267 ISIL (Da'esh) Sanction Committee's List' we replied on April 18, 2019 to Mr. Shahzad Afzal Khan, Additional Director....

x. The email mentioned at serial No. 3(x) of the under reply show cause carries clear statement i.e. **"NO FEEDBACK ON THIS IS DESIRED PLEASE"**. Therefore, we did not reply to the same....



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xi. For the email dated April 23, 2019 regarding 'amendments of one entry from UN 1989 Al-Qaeda/Da'esh Sanctions Committee's List', we replied on April 24, 2019 to Mr. Shahzad Afzal Khan, Additional Director....

xii. For the email dated May 02, 2019 in respect of the Ministry of Interior Notification dated April 18, 2019 for 'proscribed organization under First Schedule of the Anti Terrorism Act, 1997', we replied on May 03, 2019 to Mr. Ali Hashim Khan, Assistant Director....

xiii. We regret to inform you that we did not receive your email dated: May 2, 2019 mentioned at serial No. 3(xiii) of the subject show cause notice....

In the light of the above submission it is evident that all the emails were replied by us, which can be checked from the recipients portal, thus there is no non-compliance on the part of the company under S.R.O. 245(I)/2019, hence, do not attract any penal action under section 40A of the Securities and Exchange Commission of Pakistan Act 1997. Therefore, it is requested by taking a lenient view the Show Cause Notice under reply may kindly be withdrawn and any action in consequence may be condoned without penalty.

In case you still require further explanation/clarification with regards to our reply to the subject Show Cause Notice, the management requests for the opportunity of personal hearing before the Commission."

10. The Commission, vide its notice No. ID/Enf/EastWest/2019/951 dated June 24, 2019, scheduled the hearing for July 11, 2019 at the Head Office of the Commission in Islamabad.

11. The Company opted to appear for the hearing through video link from Company Registration Office (CRO) at Karachi. The hearing of July 11, 2019 was attended by the Authorized Representatives of the Respondents namely Mr. Shabbir Ali Kanchwala, Mr. Imran Ali Dodani and Mr. Johry Lal representing the Respondents before the Commission in the instant matter.

12. During the hearing the Authorized Representatives reiterated the comments submitted vide email dated June 12, 2019 and maintained that the Company responded to all the emails received from the Commission. They, however, argued that some of the emails as mentioned in the SCN were not received by the Company. The Authorized Representatives were advised to furnish evidence whether the Company responded to the final reminder letter dated May 9, 2019 issued to it prior to issuance of the Show Cause Notice.

13. Thereafter, as directed, the Company vide letter dated July 11, 2019 provided a copy of the reply submitted to the Commission in response to the letter dated May 9, 2019. The Company also annexed the copies of emails sent to the Commission conforming compliance with the directive. Clause (iii) of the directive states that Compliance report on statutory regulatory orders issued by the Ministry of Foreign Affairs on United Nations Security Council Resolutions and intimation from National



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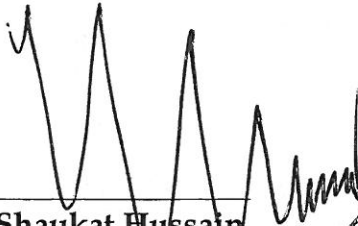
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Counter Terrorism Authority/Ministry of Interior regarding updates in list of proscribed persons under the Anti Terrorism Act, 1997, shall be submitted within three day of receiving the same, through email to aml.dept@secp.gov.pk by authorized officer of the Regulated Person.

14. It appears that the Company has apparently responded to the reminder letter on May 15, 2019. i.e within the time frame provided in the letter. Perusal of the record furnished by the Company during the course of proceedings, highlights that the Respondents have complied with S.R.O. 245 (I)/2019 by submitting a compliance reports of remaining emails, reporting the status as 'nil'. Hence, I am of the view that contents of the Show Cause Notice have adequately been addressed.

15. I have carefully examined and given due consideration to the written and verbal submissions of the Respondents, and have also referred to the provisions of the Ordinance and other legal references. I am satisfied by the explanation and therefore, I hereby close the proceedings without any adverse order against the Respondents.

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


Shaukat Hussain
Commissioner (Insurance)

