



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN  
SPECIALIZED COMPANIES DIVISION

Before Commissioner (SCD)

In the matter of Show Cause Notice issued to MCB Arif Habib Savings and Investments Limited under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 and Section 282J (1) read with Section 282M (1) of the Companies Ordinance, 1984

Date of hearing:

December 18, 2018

Present (on behalf of MCB Arif Habib  
Savings and Investments Limited)

i. Mr. Muhammad Saqib Saleem,  
Chief Executive Officer

Assisting the Commissioner (SCD)

i. Mr. Muhammad Jahangir, Joint Director  
ii. Raja Ateeq Ahmed, Management Executive

ORDER

This Order shall dispose of proceedings initiated against MCB Arif Habib Savings and Investments Limited (the "Company" or "AMC") through Show Cause Notice (the "SCN") bearing No. SCD/AMCW/ADJUDICATION/MCBAHSIL/182/2018 dated November 16, 2018 under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 (the "Act") and Section 282J (1) read with Section 282M (1) of the Companies Ordinance, 1984 (the "Ordinance").

2. The brief facts of the case are that a limited scope inspection of the Company was ordered under Section 282I of the Ordinance vide inspection order bearing number SCD/S&ED-IW/MCBAH/2018/016 dated August 01, 2018 to review compliance with the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 ("AML & CFT Regulations") and Circular 12 of 2009. As per the inspection findings, the Company did not obtain required documentation to identify the source of funds and certain other observations were noticed regarding five of its clients resulting in non-compliance with the Regulation 6(3), 6(4), 9(4)(b) of the AML & CFT Regulations and clause 2(a), 4(a) of Circular 12 of 2009.

3. Consequently, an SCN dated November 16, 2018 was issued whereby the Company was called upon to show cause in writing by November 26, 2018 as to why penal action may not be taken for the above-mentioned alleged non-compliances and hearing in the matter was scheduled for November 30, 2018.





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4. In response to the SCN, the Company vide letter dated November 23, 2018 requested for extension in time for submitting reply by two weeks i.e. up to December 10, 2018 and to fix the hearing thereafter. The request of the Company was acceded to and it was allowed to submit response till December 10, 2018 and the hearing was rescheduled for December 18, 2018.

5. Subsequently, the Company submitted written response through its letter dated December 10, 2018 along with copies of the following documents;

- a. Audited financial statements for the year ended May 12, 2018 and profile of Account No. 64386 ("Client A");
- b. Composition of Member of Board of Trustees, CNICs of the Members of Trust, financial Statements for the year ended June 30, 2017 regarding Account No. 46466 ("Client B");
- c. Trust deed, CNICs of trustees and financial statements for the year ended June 30, 2017 for Account No. 54982 ("Client C");
- d. Bank account statement of Account No. 66433 ("Client D");
- e. Relinquishment Deed dated May 16, 2012, sale agreement of property, Orders of inheritance suits dated December 3, 2009 and June 12, 2009, and discretionary portfolio management agreement dated October 19, 2017 and employment references for Account No. 69742 ("Client E"),.

Further, the Company also provided account wise details in its written response which are summarized as under:

Sr. No.	Client	Details
1	Client A	Client A is one of the leading institutions in Pakistan which is headed by renowned international Islamic scholar who remained Shariah Advisor to many Islamic financial institutions in Pakistan. Further, the Company did conduct Enhanced Due Diligence ("EDD") in respect of Client A, when initial investment amounting to Rs.40 million was made on July 21, 2016. Subsequently, when the total investment increased to Rs.124 million, EDD was conducted by the Company's Review Committee. The purpose of transaction was purely investment to earn return and it was in accordance with the Guidelines issued by the Securities and Exchange Commission of Pakistan ("Commission") on AML/CFT in September 2018 pursuant to AML & CFT Regulations. The Company further stated that





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		there is no prescribed form for documenting EDD under the AML & CFT Regulations and the Guidelines.
2	Client B	The trust was constituted by the officers of high profile and highly reputed organization and the activities of trust are being monitored by one of the trustees of the trust. Further, the increase in investment is over a period of 7 years. The Company did conduct EDD on subsequent investments and the purpose of transaction was purely investment to earn return. The Company also stated that there is no prescribed form for documenting EDD under AML & CFT Regulations.
3	Client C	The trust was formed by chairman of a financial institution in memory of his wife. Father and Daughter are the main trustees and the investment of the trust has grown over a period of 14 years. EDD in respect of the trust was conducted when its investment increased to 33 million. However, there is no prescribed form for documenting EDD under AML & CFT Regulations. Trust deed was self-contained and there were no separate bye-laws or rules and regulations as the same is not requirement under the Trust Act, 1882.
4	Client D	Client D is employed with Qatar Gas Transport Company Limited as a Technical Superintendent and drawing a handsome monthly salary to almost Rs. 2.1 million. Service card issued by Qatar Gas Transport Company Limited and remittance details were duly provided along with account opening form. The Company did conduct EDD in respect of Client D; however, there is no prescribed form for documenting EDD under the AML & CFT Regulations. Subsequent to SCN, the Company has also obtained statement of bank account in which salary and other emoluments of the customer are deposited.
5	Client E	It is an account of four family members wherein mother is the first joint account holder. Inspection team was provided with evidence of investment in the joint account aggregating to Rs. 45 million including the source of funds which includes a relinquishment deed wherein husband gifted his investments including equities, term finance certificates, units of mutual funds and cash deposits in various currencies held in a scheduled commercial bank to first joint account holder (wife). The Company also provided other relevant documents to substantiate the





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		worth of relinquishment deed including agreement to sale a bungalow and proofs for payments received through inheritance suit.
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6. Hearing in the matter was held on December 18, 2018, which was attended by Mr. Muhammad Saqib Saleem, Chief Executive Officer ("the Respondent"). During the course of hearing, the Respondent made the submissions mainly reiterating the earlier written stance of the AMC. It was mentioned by the Respondent that there is no specified form for documenting EDD but they use measures to determine identity of the customers.

7. During the hearing, the Respondent was apprised about the necessity of diligently conducting the KYC/CDD process while entering into formal relationship with any investor as the onus of conducting a thorough KYC/CDD process falls entirely on the AMC itself. The Respondent was also informed that the SCN primarily contains all observations of the inspection team, therefore, providing an opportunity to the Company to explain its view point. The documentation of EDD was stressed for referencing in future. Moreover, the Respondent was advised to furnish complete documentation including incorporation details, authorized persons to make investments on behalf of Client A, documents providing more information regarding the employment history of Client D and reconciliation of assets/source of funds for Client E.

8. In light of the points raised during the hearing, the Respondent through e-mails dated December 24, 2018 and December 31, 2018 provided the following additional documents to substantiate the stance of the AMC:

- a. Client A- Registration certificate under Societies Registration Act, 1860 and details of authorized persons to make investments;
- b. Client D- Letter by employer addressed to a bank in Qatar;
- c. Client E-Reconciliation statement of joint account holders and a clarification regarding copy of discretionary portfolio management agreement already provided.

9. I have examined the facts of the case, written responses submitted along with documentary evidences, the arguments put forth by the Respondent during the course of hearing and the relevant regulatory requirements. I am of the view that the Company failed to obtain the requisite documents from the clients at the time of account opening and thereafter on an ongoing basis. In accordance with the AML/CFT regulatory framework, necessary documents





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should have been readily available with the Company during the course of inspection. Contrary to that the Company submitted documents after initiation of the adjudication proceedings.

10. In view of the fact that the Company has now managed to provide majority of the requisite documents, therefore, I am not imposing any penalty this time and the Company is, hereby, warned to ensure meticulous compliance of the regulatory framework in future.

11. Further, I also consider it necessary to highlight that the process of EDD is not limited to a prescribed form rather it includes implementation of appropriate internal risk management systems, policies, procedures and controls to determine if any customer presents high risk of money laundering/terrorist financing. In accordance with the prevailing regulatory framework for AML/CFT, the Company shall, in case of EDD, obtain approval from senior management to establish or continue business relations with high risk customers; establish the sources of wealth and/or funds or beneficial ownership of funds and carry out enhanced monitoring of business relations, amongst other things.

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

**(Shauzab Ali)**

Commissioner (SCD)

**Announced: January 10, 2019 at Islamabad**