

Before Ali Azeem Ikram, Executive Director/HOD (Adjudication-I)

In the matter of Show Cause Notice issued to M/s. AKD Securities Limited

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Date of Hearing

July 17, 2020

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**Order-Redacted Version**

Order dated September 15, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of AKD Securities Limited. Relevant details are given as hereunder:

<b>Nature</b>	<b>Details</b>
1. Date of Action	Show cause notice dated May 19, 2020
2. Name of Company	AKD Securities Limited
3. Name of Individual*	Not relevant. The proceedings were initiated against the Company i.e. AKD Securities Limited.
4. Nature of Offence	Proceedings under Section 40A of SECP Act, 1997 for the violations of Regulation 6(4) read with Annexure I note (i) and (ii) and Regulation 6(3)(c), 7(1)(b), 3(1)(a), 9(4), 10(3) and Regulation 4(a) read with Regulation 13(7) of the AML and CFT Regulations, 2018
5. Action Taken	<p>Key findings of default of Regulations were reported in the following manner:</p> <p>I have examined the written and oral submissions of the Respondent. In this regard, I observe that:</p> <ol style="list-style-type: none"><li>i. With regard to the observation regarding the missing documents of a Charitable Trust, the Respondent submitted that it has already collected the financial statements for the client. The Respondent further submitted that the same could not be provided during the inspection as they were in the process of scanning all relevant documents. The Respondent also submitted that no transaction was conducted during the period by the client. It may be noted here that the inspection was initiated in December, 2019 after the promulgation</li></ol>



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	<p>of AML Regulations in June, 2018. AML Regulations clearly requires a regulated person to make available all CDD and transaction records to the Commission whenever required. The Respondent had failed to produce the requisite documents during the inspection and have later provided the documents after the issuance of the SCN. The Respondent was therefore, found non-compliant with Regulation 6(4) read with Annexure I of the AML Regulations.</p> <p>ii. With regard observation regarding the source of income/ beneficial ownership of two clients, the Respondent submitted that in one instance of a house hold client, it had already obtained copy of income tax return/ wealth statement during the year 2015 &amp; 2019 when the client's trading activity had crossed threshold as defined in Respondent's internal AML Policy. The Respondent further submitted that the account holder is the beneficial owner of own account therefore, no further identification as required on their part. The Respondent's justification in this regard is tenable. In another instance of a student, the Respondent had produced statement of account where the size of his transactions and trading account have remained well within the threshold of Sahulat Account as per the Respondent's internal AML Policy wherein such documentation is not required on part of the Respondent for accounts operating under the limit. However, in case of student, identification and verification of beneficial ownership is needed especially where there was no tax return/ wealth statement (evidencing ownership of the company) is filed by the client. The Respondent was therefore, found non-compliant with Regulation 6(3)(c) of the AML Regulations.</p> <p>iii. With regard to the observation regarding identification/ verification of natural persons who has controlling interest in the legal person in the matter of 3 instances, the Respondent provided that they had already identified beneficial ownership for 2 corporate clients that were provided to the inspection team. It was noted that the Respondent had provided copies of Form A (Annual return of company having share capital) where members could be identified. However, the Form A merely contains a list of members which could not be regarded as sufficient evidence to identify the identity of natural persons who have controlling interest in the company. No further documentation was obtained with respect to the identities of beneficial owners of the legal persons. Further, with regard to the third instance of an Internal Broker Dealer (IBD), the Respondent provided that the client has been trading on behalf of its clients without any funds or custody with the Respondent. Further, IBD operate through SCRA (Special Convertible Rupee Account) which is regulated by the SBP (State Bank of Pakistan). The Respondent contention in this regard is also not tenable as the onus of identifying the natural persons behind corporate clients lies with the Respondent. The Respondent had failed to conduct</p>
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	<p>appropriate due diligence to identify the identity of natural persons in the matter of 3 corporate clients and is therefore, found to be non-compliant with Regulation 7(1)(b) of the AML Regulations.</p> <p>iv. With regard to the identification of risk associated with PEP, the Respondent had submitted that there is no specific criterion in the Regulations to identify the PEP and the same is left to the wisdom of the regulated person. Further, the Respondent had provided a copy of letter from the Bank which provides for the sufficiency of funds in the account of the client after the sale of property and wherein a cheque was issued to the Respondent for funds. Here it is important to draw attention towards Regulation 2(t)(ii) of the AML Regulations which defines domestic PEP as "individuals who are or have been entrusted domestically with prominent public functions, for example heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials." Further, a bank statement could not be regarded as sufficient evidence to establish source of funds/ nature of income. The Respondent had failed to assess its risk in association with the PEP client and rather classified the client as a "low risk" individual with such significant trading activity and volume. The Respondent had further failed to carry out the required enhanced due diligence for the client which posed a higher risk to the business. Therefore, the Respondent was found non-compliant with Regulation 3(1)(a), 9(4) &amp; 10(3) of the AML Regulations.</p> <p>v. With regard to the observation regarding NADRA Verisys of its clients, joint account holders, authorized persons, nominees, trustees and BoDs in case of 9 client accounts, the Respondent had submitted that they did not have access to NADRA Verisys system during the inspection. However, the requirement for bio metric verification has now been made mandatory for new account opening. Therefore, in view of the Respondent, the NADRA Verisys would be a duplication of efforts. Further, the Respondent had iterated its limitations to access the NADRA Verisys system. The contention of the Respondent in this regard may not be regard as tenable as the bio metric verification has recently been made mandatory for all new account openers. In this regard, the Respondent was inquired regarding the Verisys of legacy accounts to which the Respondent could not provide a satisfactory response. The Respondent could not provide a timeline for compliance of the said Regulations for all its account holders. The Respondent's justification in this regard is not tenable as the Regulations explicitly requires for the Verisys of all account holders and their associated individuals. The Respondent had not complied with the requirement of Regulation 6(4) read with Annexure I (note i) of the AML Regulations.</p>
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	<p>vi. With regard to the observation regarding the source of income/ funds of two individual clients who were categorized as employee and a doctor, the Respondent provided salary certificates of these clients however, it was observed that the same was not produced during the inspection. The Respondent in reply to LOF provided that the trading activity of these clients remained within the threshold as defined per the Respondent's AML Policy and failed to produce evidence of employment or salary details. These documents were provided in response to the SCN which reveals that the Respondent had not obtained details of service/ employment of the said individuals prior to the inspection. Therefore, the Respondent was found non-compliant with Regulation 6(4) read with Annexure I (note ii) of the AML Regulations.</p> <p>vii. With regard to the observation regarding the details of beneficial ownership of the account holders, the Respondent provided that the requisite details were maintained in the account opening form however, the same were not incorporate into the back-office system. Subsequent to the observation of the inspection team, the Respondent had updated their back-office system to incorporate such details of beneficial owners for effective screening purposes in December, 2019. The contention of the Respondent with regard to the maintenance of such details in the account opening form could not be regarded as tenable as it is not feasible to perform direct and indirect screening of proscribed persons if such information is manually maintained in the account opening forms. The Respondent failed to demonstrate an effective screening mechanism for direct and indirect screening of individuals against the list of proscribed persons at the time of inspection and therefore, was found non-compliant with Regulation 4(a) read with Regulation 13(7) of the AML Regulations.</p> <p>In view of the foregoing and admission made by the Representatives, contraventions of the provisions of AML Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of Rs. 875 000/- (Rupees Eight Hundred and Seventy-Five Thousand Only) is hereby imposed on the Respondent.</p> <p>Penalty Order dated September 15, 2020 was passed by Executive Director (Adjudication-I).</p>
6. Penalty Imposed	A penalty of Rs. 875, 000/- (Rupees eight hundred and seventy-five thousand only) was imposed on the Company.



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7. Current Status of Order	An appeal has been filed.

**Redacted version issued for placement on the website of the Commission.**