

Before Shauzab Ali, Commissioner (SMD)

In the matter of Show Cause Notice issued to Foundation Securities (Pvt) Limited

Date of Hearing

March 11, 2020

Order-Redacted Version

Order dated April 21, 2020 was passed by Commissioner (SMD) in the matter of Foundation Securities (Pvt) Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated January 07, 2020
2. Name of Company	Foundation Securities (Pvt) Limited
3. Name of Individual*	Not relevant. The proceedings were initiated against the Company i.e. Foundation Securities (Pvt) limited
4. Nature of Offence	Proceedings under Section 40A of SECP Act, 1997 for violations of 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 submissions of the Respondent and its Representatives. In this regard, I observe that:</p> <ul style="list-style-type: none">i. With regard to the non-identification of two names (proscribed persons) in the screening system, the Respondent submitted that the name of one proscribed person i.e. Khan Muhammad could not be identified in the system as it was not available in the NACTA list available in the NACTA's system/ website. However, the Respondent had provided timely response of the said SRO to the Commission AML Department with regard to the highlighted proscribed person. Moreover, with regard to the screening of other proscribed person i.e. Abdullah Anshori, the Respondent submitted that proscribed person detail was available in their system however, name could not be matched due to error in the formatting of the source document. The Respondent provided that they have now updated their screening system to identify even near matches/ partial names with more checks.



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It was observed that the Respondent has performed its screening with respect to the two proscribed individuals and found no match. Further, that it has taken sufficient measures to rectify the weaknesses in its automated system and made several modifications with regard to the identifications of such proscribed persons and its matching with client's database. Therefore, the observation in the Review is not tenable.

- ii. With regard to clause 3(b) of the SCN,
- a. The Respondent submitted that it conducts screening of its customers against UNSC/ NACTA lists of proscribed persons and entities on regular basis and submitted copies of its fortnightly screening reports for the month of October 2019. Further, the Respondent has also been providing timely responses to the SROs issued by Ministry of Foreign Affairs on UNSCR and intimation from NACTA or Ministry of Interior regarding list of proscribed individuals/ entities. The Respondent's reply in this regard is tenable.
 - b. The Respondent further submitted that the details of customer's beneficial ownerships like father/ husband were already available in their back-office system and provided snapshot of their system. Further, with regard to the details of authorized persons, directors, shareholders/ beneficial owners, trustee, governing bodies members (in case of legal persons/legal arrangements), the Respondent provided that it had called for requisite information from its corporate clients and are pursuing their clients in the matter and also shared copies of such emails sent to its clients. Further, the Respondent has now updated its back-office system to incorporate such information as required. The Respondent had maintained information regarding beneficial ownership of its individual clients in its system and further, that it has taken sufficient steps to accumulate such information from its corporate clients.

Therefore, keeping in view the screening mechanism of the Respondent, its timely response on SRO's regarding proscribed persons and measures taken to accumulate information with respect to beneficial ownership of individuals and corporate clients, the Respondent is not held accountable in the matter. However, it is advised to actively arrange for information from its corporate clients to take necessary action after consultation from the Commission's AML Department within 60 days of this Order.



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	<p>iii. With regard to the senior management approval in respect of its high-risk clients, the Respondent provided that the said approval is maintained on the customer risk profiling (CRP) forms. Copies of such forms were also produced by the Respondent which were duly signed by its compliance officer. The said forms sufficiently cover the reasons for classifying these customers as high risk and is approved by its compliance officer. The Respondent's stance in this regard is tenable hence, cannot be held accountable in the matter.</p> <p>iv. With regard to inappropriate risk rating of its clients in violation of Regulation 6(8) of the AML Regulations, the matter was taken up with the AML Department to seek clarity of the categorization of clients as "medium" risk in addition to "high" and "low" risk as provided in the AML Regulation. The AML Department provided that keeping in view the feedback from the industry and supervisory teams regarding customer categorization as "medium" risk, the AML Regulations 2018 are being amended to also include moderate risk category for customer's rating. Therefore, the Respondent cannot be held accountable in the matter as the regulated person can assign any of 3-rating category as per their risk assessment of the client in accordance with the AML Regulations.</p> <p>v. With regard to the written justification of its low risk clients, the Respondent submitted that it has incorporated the relevant risk factors on its CRP checklist and also produced copies of the same. The CRP form of the Respondent sufficiently cover the reasons for classifying these customers as low risk depending on their CDD and is approved by its compliance officer. The Respondent's stance in this regard is tenable hence, cannot be held accountable in the matter.</p> <p>vi. With regard to NADRA Verisys of its clients, the Respondent during the hearing submitted that they were in the process of conducting verification of its clients. The Respondent further provided that it has a huge customer base with approx. 14,000 clients among which 800 are active clients therefore, it will take a few months to complete verification of all its clients. The Respondent also provided that the process of verification may be completed by May 31, 2020. The Respondent is thus advised to complete it due process of NADRA verification within the said timeline and submit compliance report to the Commission within 60 days of the issuance of this order.</p>
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	<p>In view of the foregoing and submissions made by the Respondents and their Representatives, I am of the considered view that the Respondent is cognizant of their obligations under the AML Regulations. I am also assured by the Respondent's commitment to further strengthen its systems and procedures regarding AML/CFT procedures. I hereby warn the Respondent to be careful in future and ensue meticulous compliance of AML Regulations in letter and spirit.</p> <p>Order dated April 21, 2020 was passed by Commissioner (SMD)</p>
6. Penalty Imposed	A warning was issued to the Company.
7. Current Status of Order	No appeal was filed.

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